



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

January 12, 2015

Submitted Online Only

The Honorable Tom Wheeler, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Comment in the Matter of Rates for Inmate Calling Services,
WC Docket No. 12-375 (Second Further Notice of Proposed Rulemaking)**

Dear Chairman Wheeler:

The Human Rights Defense Center (HRDC) is pleased to submit this comment in response to the Commission's Second Further Notice of Proposed Rulemaking (Second Further Notice) seeking information on specific issues related to Inmate Calling Services (ICS), including permanent rate caps for interstate and intrastate calls, site commissions and ancillary fees.¹

Prison Legal News, a project of the HRDC, has reported on issues concerning ICS providers and prison phone rates since 1992, and has spent more than four years collecting and making publicly available much of the ICS data relied upon by the Commission and other interested parties that resulted in the 2013 Inmate Calling Report and Order and FNPRM (Order),² which established interim per-minute ICS interstate rate caps of \$0.25/minute for collect calls and \$0.21/minute for debit and prepaid calls.

Rate caps on interstate prison phone calls have not only increased ICS call volumes (Second Further Notice ¶5), but have also made a real difference in the lives of prisoners and their family members, as detailed in the multitude of letters filed on the docket. It is HRDC's position that comprehensive ICS reform includes not only permanent interstate rate caps but also permanent caps for intrastate rates and the elimination of site commissions and ancillary fees, among other remedial measures.

¹ Second Further Notice of Proposed Rulemaking, Docket No. 12-375 (October 17, 2014).

² *See generally*, Inmate Calling Report and Order and FNPRM, 28 FCC Rcd. 14107 (2013).

I. Historical Framework of the ICS Industry

Some ICS providers and detention facilities that have filed comments make dire predictions if the current system of price gouging, financial exploitation of prisoners and their families, and commissions/kickbacks paid to correctional agencies were ended and/or rate caps imposed on phone calls made by prisoners. History and experience belie these claims, however.

The Commission should note that the practice of ICS commissions in exchange for monopoly contracts at detention facilities began in the late 1980s and did not become widespread until the early 1990s. Prior to that time, since at least the late 1960s, prisoners had access to phone services that did not rely on commission-based contracts.

Speaking from personal experience, when I was first imprisoned in Washington state in 1987, I could place a collect call to my family in Florida via a live operator on a call handled by AT&T, and speak with them for an unlimited period of time at a cost of pennies a minute. I was able to speak with them every day. That changed in 1992 when AT&T, in exchange for a monopoly contract, gave the Washington Department of Corrections (DOC) a commission on ICS revenue. The calling rates steadily increased until they became some of the highest in the country (\$4.95 + \$0.89/minute for interstate calls, or \$18.30 for a 15-minute call). Further, the Washington DOC provided far more programs to prisoners when it received no ICS commissions than they do now under a commission-based contract.

Prior to the commission model of ICS contracts, prisons and jails were perfectly capable of providing telephone access to prisoners, as well as rehabilitative services, without phone rates inflated by commission kickbacks. Today, some defenders of the current commission-based status quo claim that if the kickbacks are eliminated or ICS rates are curtailed, some programs that benefit prisoners risk being eliminated.

This claim is a red herring and a distraction from the issue of unjust phone rates. First, aside from California, we are aware of no state that imposes any statutory limitation or restriction on how ICS commissions are used. Nationally, such funds have been used for everything from state and county general funds to buying guard uniforms, paying guard salaries, purchasing food for prisoners and other basic needs that by all accounts should be paid by the state. For example, a summary of the Inmate Welfare Fund for the Los Angeles County Sheriff's Department indicates the fund is used to pay for a wide variety of expenses that include institutional food, clothing, equipment and building maintenance, office expenses, administrative services, tools and minor equipment, and "computing mainframe." While some IWF funds are used for educational and recreational programs for prisoners, the majority is not. See Exhibit A.

It is pathetic when states such as Georgia claim they use their ICS commissions to provide mental health care for prisoners, implying that if they were to lose the commission revenue they will simply shirk or refuse to carry out their constitutional and statutory obligations to provide appropriate medical treatment to mentally ill prisoners. Do they seriously mean that if they no longer receive ICS commissions then the mentally ill will go untreated?

One of the many inherent evils of the current ICS commission-based system is that it subverts the democratic process. If prison and jail officials believe certain programs are worthwhile and deserve to be funded, then they should go to their respective legislative bodies and request funding for those programs, with the cost borne by all taxpayers through the legislative budget process – not just by prisoners and their family members through contractual fiat by corrections officials and ICS providers.

Under the current system only some taxpayers – those who wish to maintain contact with their incarcerated loved ones – are subjected to inflated phone rates as a means of funding certain correctional programs and services, which, as noted above, may or may not directly benefit prisoners. In short, the Commission’s duty is to ensure “just, reasonable and fair” rates for all consumers. What the commissions are or are not used for is immaterial to that analysis.

Consider the example of New York, which banned ICS commissions in 2007. At the time it did away with commissions, the state Department of Correctional Services was receiving a 57.5% commission that provided around \$20 million in commission payments annually. After ending the commissions, the phone rates at NY DOCCS facilities dropped to some of the lowest in the nation, at \$.048 per minute. Yet even without the \$20 million in annual commission payments, New York’s prison system did not stop providing educational and recreational programs that benefit prisoners. In a July 8, 2013 letter submitted to the Commission, NY DOCCS Acting Commissioner Anthony J. Annucci stated, “The commission revenue had been used to pay for inmate services related to health care and family visitation. This was addressed by executive budget increases and the elimination of some inmate services.” He concluded, “there are significant benefits that can be attributed to lower calling rates that seem to outweigh the operational challenges that also attach to the process.” See Exhibit B.

The ICS commission issue also illustrates the fundamental problem with the existing status quo; specifically, the lack of competition in the ICS industry, in which local jails and 41 state prison systems, in exchange for commission payments, provide ICS providers with monopoly phone service contracts. Notably, few correctional agencies have foregone commissions, even though they control the RFP process and could decline to accept such payments, absent legislative or executive action – such as in most of the nine states that have banned commission kickbacks.³

As these proceedings before the Commission aptly illustrate, ICS providers view the government contracting agencies as their customers, not the hard-working taxpayers who are actually paying the ICS bills, who are viewed as helpless victims to be financially exploited because they have no alternative if they wish to speak with their imprisoned loved ones.

The lack of competition in the ICS industry has long been problematic. However, there is no technical reason why correctional facilities cannot handle the security functions of an ICS system themselves, or contract with a third party to do so, while allowing call recipients to choose their preferred phone carrier or service. Only when consumers are afforded the choice to select telecommunications providers that offer the best service at the lowest price will a competitive and free market prevail in the ICS industry.

³ New Jersey is the most recent state to forgo ICS commissions.

Meanwhile, as set forth below, we urge the Commission to enact permanent, lasting reform by imposing rate caps on all calls made by prisoners, banning commission payments to detention facilities and banning ancillary fees so that consumers may enjoy just, reasonable and fair rates for telephone communication with their incarcerated loved ones. The cost of ICS was reasonable and affordable for most Americans until the early 1990s, when the commission system became the norm. The Commission should note that of the many thousands of comments received on the topic of ICS, the *only* ones that defend the existing practice of exploiting consumers are those from the stakeholders that financially benefit from the status quo: the ICS providers and some correctional agencies that do not want to lose their ICS commissions.

II. Comments for Second Further Notice of Proposed Rulemaking

A. Commission Payments

The Commission requests comment on prohibiting site commission payments so market-based dynamics will result in just and reasonable ICS rates and fair compensation. (Second Further Notice ¶¶21 and 27). HRDC opposes any action by the Commission with respect to setting a cap or limit on ICS commissions or similar payments made by ICS providers to correctional facilities, unless that cap or limit is zero. Should the Commission establish a cap or take other action with respect to limiting ICS commissions, it would be placing its stamp of approval on the commission-based model for ICS services, and site commission payments would thus be legitimized and institutionalized.

“The record is clear that site commissions are the primary reason ICS rates are unjust and unreasonable and ICS compensation is unfair, and that such payments have continued to increase since our Order.” (Second Further Notice ¶21). “Moreover, where states have eliminated site commissions, rates have fallen dramatically.” *Id.*

As the Commission notes, the Joint Provider Reform Proposal – discussed below in greater detail – supports the elimination of site commissions and proposes a long list of commission payments that would not be permitted. (Second Further Notice ¶38). The ICS providers further claim that “The per-minute rate caps proposed above are feasible for the parties only if implemented in conjunction with corresponding reductions in site commission payments.”⁴ While it appears that the ICS providers are trying to use reforms implemented by the Commission to assist in contract negotiations with correctional agencies with respect to site commissions, the practice of routing such payments through other creative methods should not be overlooked.

One example is the ICS contract between Global Tel*Link (GTL) and the Michigan DOC. Michigan is one of nine states that have eliminated site commissions; however, the DOC created a “Special Equipment Fund” that is funded by a per-minute increase in ICS phone rates. Thus, absent the explicit elimination of any site commission payments or their equivalents, correctional agencies or ICS providers will likely find a way to circumvent any lesser restrictions. HRDC brought this practice to the Commission’s attention in a comment dated June 16, 2011.

⁴ Joint Provider Reform Proposal at 3.

As a practical matter, if the Commission imposes caps on ICS rates that are low enough, there will be an effective end to commissions, as ICS providers will not be able to provide more than token amounts to correctional agencies. This will also have the effect of leveling the playing field, because ICS contracts will no longer be bid based on the highest commission, as has been the historical practice. Again, this is dependent on the Commission establishing rate caps at a level low enough to deter or effectively eliminate site commissions.

We submit that the elimination of commission payments is the only way correctional facilities will begin to enter into ICS contracts that provide just and reasonable phone rates for prisoners and their families. We further submit that the rate caps proposed in the Joint Provider Reform Proposal are not low enough to accomplish that goal – particularly considering that numerous states currently have ICS rates *lower* than the proposed rate caps.

For example, the Joint Provider Reform Proposal suggests rate caps of \$0.20 per minute for debit and prepaid calls, and \$0.24 per minute for collect calls – or \$3.00 and \$3.60 for a 15-minute call, respectively. However, according to HRDC’s most recent state-by-state phone rate data, at least 25 state prison systems have intrastate ICS rates *below* the cap proposed in the Joint Provider Reform Proposal for collect calls, while at least 20 states have prepaid and debit rates *below* the proposed cap. See Exhibit C. We use intrastate phone rates for this example because those rates were not capped by the Commission’s September 26, 2013 Order. A number of states also have interstate ICS rates below the current rate caps on long distance calls.

As we have noted in previous comments, setting rate caps at a level that could result in ICS rate *increases* in a significant number of states (i.e., up to the amount of the cap) would be an absurd outcome and would not result in just, reasonable and fair rates for consumers in those states. It is self-evident that ICS providers can provide phone services in states that currently have ICS rates below the caps in the Joint Provider Reform Proposal, and can do so profitably.

Securus issued a press release on October 31, 2014, touting the \$1.3 billion the company had paid in ICS site commissions over the last 10 years. The press release reads a bit differently than the Joint Provider Reform Proposal, in which Securus participated. “Part of the heritage of our business is that we calculate, bill, and collect commissions and pay those to jails, prisons, and local, county, and state governments, said Richard A. (“Rick”) Smith, Chief Executive Officer of Securus Technologies, Inc. And it appears, sadly, that regime may come to an end in the not too distant future,” he added. See Exhibit D.⁵

The press release goes on to state that Securus has “been a vocal advocate of maintaining commissions and [has] spent approximately \$5 million in legal fees and other costs on behalf of our facility customers over the last decade to maintain commissions, but the FCC maintains that it is not good public policy to have the poorest in society help to fund government operations, even though the programs funded are worthwhile.” *Id.*

⁵ Also available online at: https://securustech.net/press-releases/-/asset_publisher/1Bo9KqWeTcqo/blog/securus-provides-over-1-3-billion-in-prison-jail-and-government-funding-over-the-last-10-years.

Assuming an average 47.79% commission rate, as calculated by HRDC in our comment dated December 20, 2013 (at Exhibit A, p.23), Securus received estimated gross revenue of \$2.72 billion over that same ten-year period, paid for by prisoners and their family members – and Securus is just one ICS provider. By definition, commission payments have nothing to do with the actual cost of providing phone services,⁶ and are merely legal bribes to induce correctional agencies to provide ICS providers with lucrative monopoly contracts. Sadly, although Securus boasts about the amount of commissions it has paid to correctional agencies, it does not mention that all such payments came from the pockets of prisoners and their family members, who had no other choice if they wanted to stay in contact with each other via phone calls.

B. Interstate and Intrastate ICS Rate Reform

HRDC continues to fully support the adoption of permanent rate caps and a simplified rate structure for interstate and intrastate ICS calls. Based on existing rates in the states that have the lowest ICS costs, we submit that a just and reasonable rate cap for interstate and intrastate calls would be *\$0.05 to \$0.07 per minute*. This range is consistent with the intrastate rates currently in effect in a number of states, including New Mexico (effective rates of \$.043/minute for collect and debit calls and \$.039/minute for prepaid calls); New Hampshire (effective rates of \$.043/minute for collect calls and \$.0586/minute for prepaid and debit calls); Rhode Island (effective rates of \$.046/minute for collect and prepaid calls and \$.042/minute for debit calls); New York (\$.048/minute for all types of calls); Pennsylvania (\$.059/minute for all types of calls) and South Carolina (effective rates of \$.066/minute for collect calls and \$.05/minute for prepaid and debit calls) – all based on 15-minute calls.

Notably, all of those rates are for *intrastate* calls, which were not affected by the Commission's Order capping interstate ICS rates; further, in all but one of those states – Rhode Island being the exception – preexisting interstate rates were lower than the caps imposed by the Commission. Thus, even before the interstate rate caps went into effect, several Departments of Correction had ICS rates well below the Commission's caps on interstate rates *and* the ICS providers' proposed intrastate rate caps in the Joint Provider Reform Proposal.

Further, several states have reduced their intrastate ICS rates after the Commission's September 26, 2013 Order went into effect. For example, the intrastate rates in New Jersey's prison system dropped to \$0.19/min. in February 2014, then to \$0.17/min. in March 2014 and to \$0.15/min. as of September 4, 2014. See Exhibit E. This indicates that states are capable of lowering their intrastate rates below the ICS providers' proposed rate cap, *even after* reducing their interstate rates pursuant to the Commission's Order. That is, the lower ICS interstate rates did not inhibit states from also reducing their intrastate rates – in New Jersey's case, to \$0.15/minute.

Additionally, Pennsylvania recently entered into a new ICS contract with a blended per-minute rate for all intrastate and interstate calls of \$.059/minute. See Exhibit F. Other state Departments of Correction that have lowered their intrastate ICS rates following the Commission's September 26, 2013 Order include New Hampshire, Colorado and Vermont.

⁶ In its September 26, 2013 Order, the Commission found that site commissions are not a part of the cost of providing ICS and therefore are not compensable through interstate ICS rates.

In San Francisco, ICS rates recently dropped by 70%, yet jail security needs did not change, infrastructure costs did not change and the “churn rate” in the jail system did not change – all reasons that ICS providers and correctional agencies have used to justify a higher ICS rate structure for local jails. These arguments are specious. The only thing that changed, according to San Francisco Sheriff Ross Mirkarimi, was the commission rate – his office will take in approximately 17% less in commissions under the new pricing structure.⁷

The Joint Provider Reform Proposal suggests rate caps of \$0.20/minute for debit and prepaid ICS calls, and \$0.24/minute for collect calls.⁸ Although we understand that the ICS providers’ proposed rate caps reflect a merged rate to account for differences between interstate and intrastate calls, such as call volume, as indicated above some states have been able to provide ICS at rates lower than the existing interstate rate caps and the proposed intrastate caps, even before the Commission’s Order went into effect. Further, other states have significantly reduced their intrastate ICS rates after the caps on interstate rates were implemented.

The proposal submitted by Pay Tel Communications, Inc. supports a tiered-rate structure, with prison phone rates capped at \$0.08/min., a cap of \$0.26/minute for jails with ADP of 1 to 349, and a cap of \$0.22/minute for jails with ADP over 350.⁹ HRDC, however, does not support any type of tiered-rate structure; rather, we submit that a single unified rate structure is imperative to ensure ICS charges are transparent for prisoners and their families and to simplify oversight and enforcement, as was noted in the Joint Provider Reform Proposal.¹⁰

Setting rate caps for all ICS calls at levels that are just, reasonable and fair will allow families to stay in touch with their loved ones during critical times of incarceration without eliminating profits for ICS providers. This was recently demonstrated during contract negotiations between CenturyLink and the Arizona Department of Corrections (ADOC). The ADOC issued a Notice of Request for Proposal on March 6, 2014 for a Statewide Inmate Telephone System. See Exhibit G at 1-2. The proposal included a commission “guideline” amount of \$4 million paid annually to the ADOC under its existing contract at a commission rate of 53.7%. *Id.* at 3. Attachment #6 to the RFP listed the ADOC’s ICS rates as of February 28, 2014. *Id.* at 4.

Exhibit G, at 5, includes the proposals from ICS bidders with respect to the RFP’s commission requirements. Astoundingly, CenturyLink, the winning bidder, was able to offer a commission rate of 93.9% (though not as high as the 94% rate proposed by GTL), but *did not increase* the intrastate rates that Arizona families have paid for years – including \$2.40 + .24/minute for a collect interLATA call. While the company won’t profit as much as Securus, the ADOC’s prior ICS provider, we must assume that CenturyLink is able to generate profit while paying 93.9% of its gross revenue to the ADOC in site commissions, or they would not have bid for the contract at that level of commission payments. Notably, the RFP specified that transaction and ancillary fees were not allowed, which again indicates that CenturyLink is able to generate profit under such contractual provisions, even while paying a 93.6% commission.

⁷ July 9, 2014 ICS Workshop Transcript at 186-187 (Alex Friedmann, HRDC Associate Director).

⁸ Joint Provider Reform Proposal at 2.

⁹ Pay Tel Proposal Comparison filed October 8, 2014 at 1.

¹⁰ Joint Provider Reform Proposal at 2.

The critical fact about the ADOC contract is how little CenturyLink receives yet is still able to cover its costs and generate profit. The company receives only 6.1% of gross revenue from the phone rates in effect at ADOC facilities. Thus, the amounts that CenturyLink receives on a per-minute basis include, based on a 15-minute call:

Collect	Cost of Call	Gross Rate	6.1% of Gross Rate
Local:	\$1.84	\$.1226/min.	\$0.0075/min.
IntraLATA:	\$5.00	\$.3333/min.	\$0.0203/min.
InterLATA:	\$6.00	\$.40/min.	\$0.0244/min.
Interstate:	\$3.75	\$.25/min.	\$0.0153/min.

Pre-Paid/Debit	Cost of Call	Gross Rate	6.1% of Gross Rate
Local:	\$1.60	\$.1066/min.	\$0.0065/min.
IntraLATA:	\$4.60	\$.3066/min.	\$0.0187/min.
InterLATA:	\$5.60	\$.3733/min.	\$0.0228/min.
Interstate:	\$3.15	\$.21/min.	\$0.0128/min.

It is evident that CenturyLink can receive, after commissions, *less than \$0.03/minute* for all types of calls – intrastate or interstate, collect, debit or prepaid – and still make a profit.

Similarly, according to allegations in a class-action lawsuit filed against Global Tel*Link in New Jersey, GTL and its subsidiary, DSI-ITI, “purchase their minutes for calls terminating within the United States for less than 3/10 of a penny per-minute, and ... often resell the minutes it buys at more than 100 times their cost to Plaintiffs and other Class Members.” See Exhibit H, ¶23.

One other issue that the Commission needs to address is flat-rate calls, whereby prisoners or their families are charged a flat rate regardless of duration of the call. As indicated by other comments in the record, some ICS providers are charging the maximum allowable amount for interstate calls in the form of a flat rate (\$3.75 for collect and \$3.15 for prepaid/debit calls). This practice is contrary to the intent of the Commission’s Order, as the rates only fall within the rate caps when a full 15-minute call is actually completed. Calls can be cut short for a myriad of reasons: the call is accepted but the intended recipient isn’t available, a head count or other action is required in the correctional facility that results in early termination of the call, or calls are simply dropped, which happens frequently. The full flat-rate charge must be paid a second time if another call is placed after an initial call is ended prematurely.

If a prisoner calls and it takes less than a minute for the call to be answered and the prisoner to learn the intended recipient is not available, that one-minute call will still cost \$3.75 for collect and \$3.15 for prepaid/debit calls. The effective rates of calls shorter than 15 minutes in duration are, for example, \$0.75/min. (collect) and \$0.63/min. (prepaid/debit) for a five-minute call and \$0.375/min. (collect) and \$0.315/min. for a ten-minute call. This practice does not reflect the spirit of the Commission’s September 26, 2013 Order, and is a way to circumvent the rate caps and increase revenue for ICS providers.

It should be noted that the states that have banned commissions have prisons of many different sizes. The Nebraska Department of Correctional Services operates ten facilities which range in

size from the 180-bed Community Corrections Center in Omaha to the Nebraska State Penitentiary with an ADP of 1,091. Intrastate phone rates for the entire state prison system in Nebraska include \$0.70 + .05/min. for collect calls and \$0.50 + .05/min. for debit and prepaid calls.

New York, which eliminated commissions and has a flat rate of \$.048 per minute for all types of calls, has state prisons ranging from the 90-bed Rochester Correctional Facility to the 2,898-bed Clinton Correctional Facility. See Exhibit I. Clearly, the notion that the cost of providing ICS services varies depending on the size of the facility is not supported by the evidence in prison systems that have eliminated commissions. The same is true for local jails.¹¹

Accordingly, HRDC advocates for a non-tiered rate cap in the range of \$0.05-\$0.07 per minute for *all* types of ICS calls. This range is not only just, reasonable and fair based on the ICS rates currently in effect in multiple state DOCs, but also provides more-than-reasonable compensation for ICS providers, given the example cited above for Arizona which indicates that actual costs to ICS providers are lower than \$0.03/minute, inclusive of their profit margin.

C. Reforms to Ancillary Charges

Comprehensive ICS reform must include reforms to ancillary charges, which have increased since implementation of the Commission's September 26, 2013 Order.¹² "I hope it's clear that unless the FCC addresses the issue of fees, we're wasting a lot of everybody's time because without addressing the fees, you're never going to be able to bring real relief to the families that are paying these bills," stated Vincent Townsend, President of Pay Tel Communications, Inc., at the Commission's July 2014 workshop.¹³ Which is a striking, truthful statement made by an ICS provider that profits from those fees. A handout detailing the highest ancillary fees charged by ICS providers, distributed by Mr. Townsend at the July 2014 workshop, noted that four of six payment processing fees had increased since the Order went into effect. See Exhibit J.

HRDC does not support any ancillary fees for ICS accounts. The problem is that ICS providers consider their customers to be the correctional facilities; they do not consider prisoners or their families to be their customers. Telecoms do not charge non-incarcerated customers a fee for the privilege of paying their bill, yet prisoners and their families are charged excessive fees to fund pre-paid ICS accounts, which is simply paying the bill before the charges are incurred.

In 2011, Verizon proposed charging a \$2.00 fee for some types of customer payments. The company's justification was that "Customers have a number of alternatives to pay their bill and not incur the convenience fee," and "Paying the fee is an option, not an absolute." Verizon backed down "hours after the FCC said it would investigate the charges...." See Exhibit K.

The Commission should note that the existence of and increase in ICS ancillary fees is fairly recent, and is merely a means for ICS providers to boost their profits and make up for revenue lost in paying site commissions. Critical in this analysis is the fact that commissions are only paid to detention facilities based on call-generated revenue, not on the ancillary fees which the

¹¹ July 9, 2014 ICS Workshop Transcript at 184-186 (Alex Friedmann, HRDC Associate Director).

¹² July 9, 2014 ICS Workshop Transcript at 169 (Lee G. Petro, Counsel to Petitioners).

¹³ July 9, 2014 ICS Workshop Transcript at 136 (Vincent Townsend, President, Pay Tel Communications, Inc.).

companies pocket for themselves. According to the handout distributed by Mr. Townsend at the Commission's July 9, 2014 workshop, up to 60% of the money paid by consumers of prison and jail phone calls is spent on ancillary charges imposed by ICS providers rather than on the calls themselves. See Exhibit J (revenue available for calls only \$40 of \$100 paid).

The unjust nature of ancillary fees is aptly illustrated by the fact that they appear to be unique in the telecom industry. Outside the ICS context, which consumers who have any choice in the telecom service they patronize are being charged up to 26 different fees by telecom providers? The only two reasons ICS providers impose these fees on consumers are because they enrich their coffers and because they have a captive market where they have monopolized the means of communication and left consumers with no choice or other option if they wish to maintain contact with an imprisoned loved one.

III. HRDC Response to Joint Provider Reform Proposal

The Commission also seeks comment on the Joint Provider Reform Proposal submitted by Global Tel*Link, Securus and Telmate (Second Further Notice ¶92).

While HRDC is pleased to see the proposed elimination of 19 fees in the Joint Provider Reform Proposal,¹⁴ we note that consumers may well not have even been aware they were paying those many and varied fees. HRDC's position is that all ancillary fees must be cost-based, as well as just, reasonable and fair, and that ICS providers should have the burden of producing evidence to demonstrate that their fees meet this standard. Additionally, we submit that any ancillary fees need to be minimized to prevent ICS providers from effectively increasing ICS per-minute rates through the adoption of additional or higher fees.

A. Transaction or Deposit Fees

The \$7.95 per-transaction or deposit fee proposed by the ICS providers is actually higher than the fee charged by Global Tel*Link¹⁵ or Access Corrections. The proposed transaction fee is exorbitant and serves to gouge prisoners' families. A \$7.95 charge for a \$25 deposit represents a fee of 31.8%; the same fee for a \$100 deposit amounts to less than 8%. Yet the same transaction is being performed regardless of the amount of the deposit. Absent evidence that the proposed \$7.95 per-transaction fee is cost-based, just and reasonable, it should be rejected.

Additionally, HRDC objects to the ICS providers' proposal to implement a three-year time limit for a cap on transaction fees. It is important to note that transaction fees are not calculated in gross revenue when determining site commission payments; transaction fees have no impact on state or local budgets – they only affect the bottom lines of ICS providers. There is absolutely no justification to require prisoners' families to subsidize profits for ICS providers for any period of transition time, let alone three years. Comparably, there have been no time limits or monetary caps on transaction fees over the time period they have been imposed, when consumers had to pay whatever fees were charged by ICS providers to add funds to their ICS accounts.

¹⁴ Attachment to Joint Provider Reform Proposal.

¹⁵ HRDC Comment for WC Docket 12-375, September 18, 2014 at 2 (Global Tel*Link charges a flat \$6.95 fee for credit card payments).

B. Money Transfer Fees

The Joint Provider Reform Proposal states that in addition to the fees prisoners' families must pay to place money on their phone accounts, "ICS providers would be permitted to impose money transfer fees to cover the administrative costs of handling such transactions."¹⁶ The proposal then suggests a maximum of \$2.50 for administrative fees with no explanation as to how that amount was calculated and whether it is just or reasonable.

The ICS providers should be required to justify the proposed fee by disclosing the actual costs incurred to process a money transfer payment. Further, a \$2.50 fee added to the amount charged by third-party money transmitters (up to \$11.95, according to Western Union's website) may result in excessive fees charged to prisoners' families simply to add money to their account.

C. Validation Fee

The ICS providers' purported "validation fee" should be assumed to be part of the calling rates and included in the rate cap. Otherwise, as noted above, this ancillary fee serves to effectively inflate ICS rates beyond the rate caps. A maximum 8% validation fee per call – and there is no reason to assume that ICS providers would not charge the maximum fee – would mean that the proposed rate cap of \$0.24/minute for collect calls and \$0.20/minute for prepaid and debit calls would actually be \$0.26/minute for the former and \$0.216/minute for the latter.

Further, there is no indication from the ICS providers as to how the amount of this proposed fee was reached, and therefore whether it is just and reasonable.

Indeed, it is unclear exactly what the validation fee is for and why it is necessary when, until now, no validation fee has been charged. No telecom service provider charges a validation fee outside the prison context, and the ICS providers have not justified the need for such a fee.

D. Convenience or Premium Option Fees

While the ICS providers devote more than a page of their Joint Provider Reform Proposal to address fees for convenience or premium options, they do not suggest what those fees should be,¹⁷ and more information (including cost data) is needed regarding such fees.

With respect to ICS providers fully informing customers of all payment methods available, HRDC objects to the proposed language that they "may" provide such information on their websites in web-posted rates, terms and conditions, or orally or in other printed materials.¹⁸ Disclosure of *all* ICS-related fees must be posted on each ICS provider's website in a manner that allows consumers to easily access the fee information. This will help eliminate the lack of transparency that ICS providers have enjoyed for decades with respect to ancillary fees.

¹⁶ Joint Provider Reform Proposal at 5.

¹⁷ *Ibid.* at 6.

¹⁸ *Ibid.* at 6, fn 16.

E. Single Call/Single Payment Services

It is imperative that the Commission completely eliminate allowable fees for single call/single payment services. These services are not distinctly different from collect ICS and do not warrant separate pricing. The Commission asks if these services are “effectively an end run around the Commission’s rate caps,” and the answer is yes. As noted in the Second Further Notice, the record reflects that these services have been estimated to account for 40 percent of provider revenues (Second Further Notice ¶98). The importance of this revenue to the ICS providers is reflected in their proposal to cap these costs at existing levels (as high as \$14.99 billed to a credit card or \$9.99 billed to a cell phone) for 3 years.¹⁹ No cost data is provided to support the need to continue these excessive charges, merely the self-serving statement that the fee “reflects that ICS providers incur additional costs....” *Id.*

F. Additional Ways to Promote Competition

As stated previously, a critical means to foster competition is to separate the security functions of ICS systems from the calls themselves, and allow consumers to choose the telecom carrier they prefer to use to accept detention facility calls. The security functions can be provided by the facilities at a fixed cost. If ICS providers had to compete for consumer business from the people who actually pay the bills, they would most likely provide better service and lower prices.

G. Existing Contracts

Existing ICS contracts contain provisions to allow for amendments due to changes in the law or new regulations. As was seen when the Commission imposed rate caps on interstate ICS calls, the ICS providers and their prison and jail clients were able to adjust their existing contracts with relative ease. It is worth noting that all the ICS providers and all the prisons and jails contracting with them have attorneys on staff, or the resources to retain counsel, to redraft contracts in the event any are not self-executing to accommodate changes in the law or regulations.

H. Transition Periods

The Commission requests comments concerning transition periods; specifically, whether 90 days after the effective date of the order is an appropriate period to comply with all new requirements including any rate caps, elimination of per-call charges and changes in ancillary fees for existing contracts. (Second Further Notice ¶130). HRDC supports a 90-day transition period for rate caps and the elimination of per-call charges and ancillary fees. We know the rates can be adjusted in 90 days, because that was done with the interstate rate caps. And while we reject the rate caps proposed in the Joint Provider Reform Proposal as being too high, the ICS providers propose that those caps become “effective 90 days after the adoption of a final order.” (Second Further Notice ¶15). Per-call charges and ancillary fees can also be eliminated within a 90-day period.

With respect to site commissions, the Commission requests comment on a two-year transition period, or at least one state or state subdivision budget cycle to transition from site commission

¹⁹ Joint Provider Proposal at 6.

payments to allow facilities and states time to adjust (Second Further Notice ¶131). This is *far too long* to require one small group of consumers, namely prisoners and their families, who are mostly poor, to continue to subsidize state and local governments. The Commission reports that in 2013, “ICS users and their families, friends and lawyers spent over \$460 million to pay for programs ranging from inmate welfare to roads to correctional facilities’ staff salaries to the state or county’s general budget,” and then notes, “This estimate may be low.” (Second Further Notice ¶23). The Commission further reports “the record and data from the Mandatory Data Collection suggest that these payments represented just 0.3 percent of prison facilities total budgets in 2012.” *Id.* Requiring prisoners and their families, friends and attorneys to pay \$460 million per year for a two-year period to allow the government to adjust for a revenue loss of 3/10 of one percent of their corrections budget is not just, reasonable or fair in any context.

Thus, HRDC proposes the same 90-day period for phasing out ICS commissions. The amount of money in relation to government budgets is miniscule, while the sums are huge for prisoners and their families. For example, the annual budget for the Florida DOC is \$2.1 billion, and the DOC receives around \$5.3 million in ICS commissions – or .25% of the agency’s total budget.

Some of the largest ICS providers, GTL and Securus for example, are owned by hedge funds. The burden of continuing this unjust system of financial exploitation even a day longer than necessary should not be borne on the backs of the poor people who pay the phone bills. HRDC has reported extensively on detention facility budget issues, and prison and jail officials have known since at least 2003 that the Commission may take action on ICS rates. Also, since the 2013 Order was issued, all correctional agencies were on notice that there may be changes to site commissions received from ICS providers, giving them ample time to prepare for extremely modest budget reductions. Moreover, government budget managers are experienced at dealing with revenue shortfalls whether due to changes in tax income, economic recessions, natural disasters, etc. Put another way, what would corrections officials do if prisoners simply stopped using the telephones and the ICS commissions dried up?

The time is long past for the shameful and exploitive practice of price gouging consumers for using ICS services to end. A 90-day transition period is more than adequate. When the United States ended slavery in 1865, slave owners were not provided a “transition period” to adjust to having to purchase labor from free people, or to deal with their loss of revenue.

IV. Miscellaneous Matters

A. Accessible Inmate Calling Services

HRDC endorses and adopts the comments previously filed by Helping Education to Advance the Rights of the Deaf (HEARD) on WC Docket No. 12-375, relative to ICS reforms for deaf and hard of hearing prisoners and those with whom they communicate. Specifically, we endorse and adopt HEARD’s comments related to the provision of videophones, captioned telephones, TTYs and other auxiliary aids for prisoners who are deaf and hard of hearing, and the need to ensure that ICS rates charged for such accommodations do not exceed the rates charged for non-deaf or hard of hearing prisoners. Additionally, all other aspects of this comment apply equally to ICS reforms for prisoners who are deaf and hard of hearing.

B. Immigration Detention Facilities

HRDC endorses and adopts the January 10, 2015 joint comment filed by New Jersey Advocates for Immigrant Detainees and New York University School of Law Immigrant Rights Clinic on WC Docket No. 12-375, with respect to the necessity for ICS reforms for immigrant detainees. All other aspects of this comment apply equally to immigration detention facilities.

C. Video Visitation Services

With respect to video visitation services, the Prison Policy Initiative (PPI) cautions that there is “clear evidence that the video communications market is currently driven by the same perverse incentives that caused market failure in the correctional telephone industry.” (PPI comment on Docket No. 12-375, December 20, 2013).²⁰ Examples include two recent attempts by Securus to require correctional facilities to eliminate in-person visitation as a condition for providing video visits. Securus failed in its attempt to eliminate all in-person visitation in Dallas County, Texas, but was successful in Multnomah County, Oregon. See Exhibit L.

While HRDC views the regulation of video visitation as a critical issue that must be addressed before it goes too far down the same road that led us to this proceeding, we submit there is not enough evidence in the record to come to meaningful conclusions about what needs to be done. Human contact in the form of in-person visits has an even more significant effect than telephone calls, not only on recidivism but on prisoner behavior, and cannot be eliminated in the name of profit. We believe that the Commission has jurisdiction to regulate video visitation services but should do so in a separate proceeding based on a developed record.

D. Periodic Reviews

Periodic reviews by the Commission to evaluate how ICS reforms impact phone rates, ancillary fees and competition in the industry are essential to ensure that the reforms create and maintain the proper incentives to drive ICS rates to competitive levels. We need look no further than the extensive record in this proceeding to justify such reviews.

E. Enforcement

HRDC acknowledges that the Commission lacks the staff and resources to ensure compliance by ICS providers, other than reviewing the providers’ self-reported monitoring data. Therefore, we encourage the Commission to investigate all consumer complaints related to ICS services and to impose fines on ICS providers that fail to comply with the Commission’s directives.

Further, the Commission should consider revoking the licenses of ICS providers that repeatedly violate ICS reforms related to rate caps, site commission payments and ancillary fees. Lastly, the Commission can consider advising Congress that a statutory private cause of action is needed so that consumers can seek relief through litigation when they are harmed by illegal practices by

²⁰ *Also see*, “Video Visitation: How Private Companies Push for Visits by Video and Families Pay the Price,” Grassroots Leadership and Texas Criminal Justice Coalition (October 2014), *available at*: [http://grassrootsleadership.org/sites/default/files/uploads/Video%20Visitation%20\(web\).pdf](http://grassrootsleadership.org/sites/default/files/uploads/Video%20Visitation%20(web).pdf)

telecom providers. Currently, the filed rate doctrine precludes most legal challenges to abuses committed by ICS providers.

V. Conclusion

In conclusion, the Commission should note that while ICS providers understandably focus on the commission-based model for prison phone contracts and services, other options are available to correctional agencies.

The Iowa Department of Corrections, for example, provides debit-only ICS calls through the Iowa Communications Network (ICN), a state agency, in conjunction with ICSolutions under a fixed monthly lease for “all aspects of the systems and services provided to the ICN....”

Previously, the Maine Department of Corrections provided its own prison phone services through the state’s Office of Information Technology.

And in December 2013, Santa Clara County, California eliminated the ICS provider for the county’s juvenile detention center, with a population of approximately 125. The phone service at the facility is now provided through the county and costs around \$1,650 per month, which is paid from the county’s general fund. The calls are free to juveniles and certain security features are included in the phone system.²¹

HRDC would like to thank the Commission for taking action to end the abusive practices of ICS providers and their government partners in the corrections industry. Reform is long overdue and consumers have waited far too long for fundamental justice. We appreciate the difficulty and complexity of the issues at hand, but our position can be easily summarized as follows: Cap the cost of all ICS calls at a rate between \$0.05 and \$0.07 per minute; ban all site commissions and similar payments to government agencies related to ICS services; ban all ancillary fees related to ICS services except for the state, federal and local taxes imposed on all telecom customers; and lastly, implement these reforms within 90 days of issuance of the Commission’s order.

If members of the Commission or their staff have questions or require additional information or data, please do not hesitate to contact me.

Sincerely,



Paul Wright
Executive Director, HRDC

Attachments

²¹ Phone conversation with Robert De Jesus, Santa Clara County, September 23, 2014.

EXHIBIT LIST

- A Los Angeles County Sheriff's Inmate Welfare Fund Statement
- B Letter from NY DOCS Acting Commission Anthony J. Annucci, July 8, 2013
- C Intrastate ICS Rates, Revised (2013-2014)
- D Securus Press Release, October 31, 2014
- E New Jersey DOC ICS Rates Effective September 4, 2014
- F Pennsylvania DOC ICS Rates (Current)
- G Arizona DOC RFP and CenturyLink Contract Documents
- H Complaint in *James v. Global Tel*Link*, U.S.D.C. (D. N.J.), Case No. 2:13-cv-04989
- I List of New York State Prisons with Bed Capacities
- J Pay Tel Handout on ICS Ancillary Charges
- K NPR Article on Verizon's Plan to Charge \$2.00 Fee, December 20, 2011
- L Articles on Securus Video Visitation Contracts in Texas and Oregon

SHERIFF								
LEROY D. BACA, SHERIFF								
INMATE WELFARE FUND - 66630								
	FY 11-12	FY 12-13	FY 12-13	FY 13-14	FY 13-14	FY 12-13	FY 12-13	Change From
	Actual	Adopted	Adjusted	Adopted	Final Adopted	YTD Exp	Est. Actual/	Adjusted
		Budget	Allowance	Budget	Budget	as of 7/25/13	Committed	Allowance
SALARIES and EMPLOYEE BENEFITS								
Total Salaries and Employee Benefits	0	0	0	0	0	0	0	0
SERVICES & SUPPLIES								
Agricultural	5,980		0	30,000	30,000	7,141	7,141	7,141
Clothing and Personal Supplies	254,878	250,000	250,000	270,000	270,000	199,727	201,153	(48,847)
Communications	129,979	300,000	300,000	200,000	200,000	136,347	141,081	(158,840)
Food	9,300,000	11,204,000	11,204,000	10,258,000	10,258,000	8,239,068	8,401,875	(2,802,125)
Household Expense	125,987	355,000	355,000	150,000	150,000	99,531	105,319	(249,661)
Insurance			0	0	0			0
Jury and Witness Expense			0	0	0			0
Maintenance -Equipment	568,830	371,000	371,000	621,000	621,000	320,286	584,607	213,607
Maintenance-Bldgs & Improv	6,062,325	4,329,000	4,329,000	5,526,000	5,526,000	4,025,892	4,952,516	623,516
Medical, Dental, Lab Supplies	16,891	20,000	20,000	40,000	40,000	35,705	35,705	15,705
Memberships	48	1,000	1,000	1,000	1,000			(1,000)
Miscellaneous Expense	226	0	0	0	0	2,692	5,692	5,692
Office Expense	306,978	473,000	473,000	350,000	350,000	432,241	817,523	344,523
Administrative Services	949,001	1,009,000	1,009,000	1,259,000	3,259,000	1,270,354	1,270,354	281,354
Professional Services	293,772	1,000,000	1,000,000	550,000	550,000	205,065	289,110	(710,890)
Technical Services	8,329,636	25,103,000	25,103,000	13,000,000	17,000,000	7,943,269	8,731,259	(18,371,741)
Publications & Legal Notices			0	0	0			0
Rents & Leases-Equipment	121,727	300,000	300,000	200,000	200,000	51,111	81,981	(218,019)
Contracted Program Services			0	0	0			0
Rents & Leases-Bldg & Improv			0	0	0			0
Small Tools & Minor Equipment	561,237	450,000	450,000	570,000	570,000	706,138	932,728	482,728
Special Department Expense	561,263	5,495,000	5,495,000	695,000	695,000	483,596	525,680	(4,969,320)
Transportation & Travel	33,346	50,000	50,000	50,000	50,000	21,724	22,589	(27,411)
Utilities			0	0	0			0
S&S Expenditure Distribution			0	0	0			0
Training	16,180	20,000	20,000	20,000	20,000	4,183	4,183	(15,817)
Computing Personal	121,470	110,000	110,000	110,000	110,000	90,510	90,873	(19,027)
Telecommunications	280,665	150,000	150,000	300,000	300,000	377,189	412,768	262,768
Computing-Midrange/Departmental Systems		15,000	15,000	5,000	5,000	3,178	3,178	(11,822)
Information Technology Services	0	100,000	100,000	50,000	50,000			(100,000)
Computing Mainframe	63,943	15,000	15,000	1,700,000	6,134,000	4,887,136	5,808,012	5,593,012
Services & Supplies			0	0	0			0
Total Services & Supplies	27,102,239	61,120,000	61,120,000	36,965,000	46,389,000	29,542,085	33,225,407	(17,894,593)
OTHER CHARGES								
Total Other Charges	0	0	0	0	0	0	0	0
CAPITAL ASSETS								
Agricultural and Landscaping Equipment	7,458		0	0	0		132,519	132,519
Aircraft and Airport Equipment			0	0	0			0
Telecommunications Equipment		655,000	655,000	655,000	655,000	57,634	57,634	(597,366)
Construction/Heavy Maintenance Equip		0	0	0	0			0
Data Handling Equipment		120,000	120,000	120,000	120,000			(120,000)
Electronic Equipment	180,230		0	0	0			0
Computers, Midrange/Departmental	17,535		0	0	0	5,719	5,719	5,719
Food Preparation Equipment	23,100		0	0	0	32,416	32,416	32,416
Machinery Equipment	274,519	205,000	205,000	205,000	205,000	47,950	327,882	122,892
Manufactured or Prefabricated Structures	9,450		0	0	0			0
Medical - Capital Equipment			0	0	0			0
Medical - Major Moveable Equipment	123,333		0	0	0		65,399	65,399
Medical - Minor Equipment			0	0	0			0
Non-Medical Laboratory/Testing Equip			0	0	0			0
Office Furniture, Fixtures and Equipment			0	0	0			0
Park/Recreation Equipment			0	0	0			0
Tanks - Storage and Transport			0	0	0			0
Vehicles and Transportation Equip			0	0	0	31,665	31,665	31,665
Computers, Mainframe			0	0	0			0
Watercraft/Vessel/Barges/Tugs			0	0	0			0
All Other Undefined Assets		20,000	20,000	20,000	20,000			(20,000)
Dairy Equipment			0	0	0			0
Telecommunications Installation			0	0	0			0
Other Equipment Installation			0	0	0			0
Total Capital Assets	636,626	1,000,000	1,000,000	1,000,000	1,000,000	175,405	653,265	(346,735)
OTHER FINANCING USES								
Operating Transfers Out	2,688,000	15,168,000	15,168,000	15,530,000	15,530,000	5,543,292	5,543,292	(9,624,708)
Total Other Financing Uses	2,688,000	15,168,000	15,168,000	15,530,000	15,530,000	5,543,292	5,543,292	(9,624,708)

11/26/2013 10:58:00 AM 2013-14 Budget Request - Process Supplemental Dept Request Program Cost Out Status - Special Funds
 FY 13 All Special Funds - Supplemental Changes_07-22-13
 Inmate Welfare_K02



EXHIBIT B

STATE OF NEW YORK

**DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION**

THE HARRIMAN STATE CAMPUS – BUILDING 2

1220 WASHINGTON AVENUE

ALBANY, N.Y. 12226-2050

ANDREW M. CUOMO
GOVERNOR

ANTHONY J. ANNUCCI
ACTING COMMISSIONER

July 8, 2013

Mr. Gregory V. Haledjian
Attorney-Advisor
Pricing Policy Division – Wireless Competition Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Mr. Haledjian:

The New York State Department of Corrections and Community Supervision (DOCCS) welcomes the opportunity to contribute to the Federal Communications Commission's **Workshop on Reforming Rates for Inmate Calling Services**. The Department has considerable experience within this area and offers the following information for the Commission's consideration.

In 2007 DOCCS eliminated its commissions on inmate calls. Prior to that, DOCCS received a 57.5 percent commission on every completed call. The cost of the call included a connection fee (\$1.28 per call) and a per-minute charge (\$.16 per minute), resulting in an average 20 minute call costing the family \$4.48.¹ These fees became the source of acrimony between the Department and inmate advocacy groups and the focus of a class action lawsuit against the Department and the State of New York.

Amidst heavy scrutiny by the offender advocacy groups regarding the cost of inmate calling, in 2007 the Department worked closely with the Governor and Legislature to pass an inmate calling bill (NY Correction Law 623) that requires the per/minute cost of a call to be the preeminent focus of our inmate phone contract. The statute indicates that "The department shall not accept or receive revenue in excess of its reasonable operating cost for establishing and administering such telephone system services." The statute further requires that the "department {can} establish rules and regulations or departmental procedures to ensure that any inmate phone call system established by this section provides reasonable security measures to preserve the safety and security of each correctional facility, all staff and all persons outside a facility who may receive inmate phone calls."

These provisions of the statute prohibit the Department from collecting commissions from the system, but they do allow the Department to roll its administrative and security expenses (call listening and investigations for example) into the cost of the call. Although the Department is not at present attaching these operational costs to the per-minute price of the call, it may add them in the future.

Today the cost of a 20-minute call for an inmate in DOCCS is \$.96. The call rate includes a flat \$.048 per minute charge, for both local and long distance calls, with no connection fee.ⁱⁱ

The impact of the rate change has been significant. The number of completed calls has risen steadily from 5.4 million in 2006, to what we are projecting to be over 14 million in 2013. It should be noted that this increase appears to have stabilized. Interestingly, the average call duration remains at 20 minutes (see endnote i below).

Operationally, the Department has experienced both benefits and challenges from this approach. The elimination of the commission created an immediate \$20 million annual revenue short-fall in the Department's operating budget that had to be addressed. The commission revenue had been used to pay for inmate services related to health care and family visitation. This was addressed by executive budget increases and the elimination of some inmate services.

Clearly, lower phone rates have made calling a more attractive option for inmates as the numbers previously provided indicate. However, it has also made control of the phones a strategic option for gangs and unauthorized groups working inside DOCCS facilities who have sought to extort other inmates by attempting to control access to the phones. This requires vigilant monitoring by DOCCS intelligence staff and at times, intervention by DOCCS security staff.

Lower call rates have had benefits for the inmate population. The Department believes that its low calling rates have helped contribute to family reunification, and at less than a nickel per minute, the Call Home Program is among the most cost-effective family reunification options that we offer. Lower rates have also contributed to an improved relationship between the Department and the offender advocacy groups.

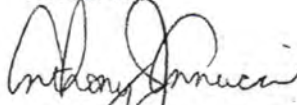
The Department believes that a lower calling rate has also contributed to a lower rate of illicit cell phone use by inmates in New York. In 2012, the Department confiscated less than 100 cell phones, compared to over ten thousand annual seizures in comparably-sized correctional systems.ⁱⁱⁱ

Mr. Gregory V. Haledjian
Page 3
July 8, 2013

In conclusion, the Department's experience indicates that inmate calling rates can be reduced substantially if states eliminate their commissions on the calls, and structure competitive bidding processes that ensure that the cost of the call is among the primary attributes of their inmate calling contracts. Moreover, there are significant benefits that can be attributed to lower calling rates that seem to outweigh the operational challenges that also attach to the process.

Thank you for providing the Department with the opportunity to contribute to your Workshop and we look forward to seeing the results of your process.

Sincerely,



Anthony J. Annucci
Acting Commissioner

ⁱ 20 minutes is the average length of a call completed on the DOCCS system. This was true in 2006 and is still true in 2013.

ⁱⁱ International calling is done under a separate system, per minute rates are higher and are based upon long distance calling rates under a separate state contract. International calling is less than 1 percent of DOCCS inmate call volume.

ⁱⁱⁱ Phone rates are a contributing factor, but so too are good security measures for both visitation and perimeter security, adequate training and compensation for line staff, and a zero tolerance policy that does not allow anyone to possess a cell phone inside a New York State prison.

Intrastate ICS Rates, REVISED

State	Company	InterLATA Rates (2013-2014)			Cost of 15-Minute Call			
		Collect	Pre-Paid	Debit	Collect	Pre-Paid	Debit	
AL	Embarq (CenturyLink) *	\$.25/min.	\$.25/min.	\$.25/min.	\$3.75	\$3.75	\$3.75	1
AK	Securus	3.75 flat	3.15 flat	3.15 flat	3.75	3.15	3.15	
AZ	CenturyLink	2.40 + .24/min.	2.00 + .24/min.	2.00 + .24/min.	6.00	5.60	5.60	
AR	GTL	3.12 + .12/min.	3.12 + .12/min.	3.12 + .12/min.	4.92	4.92	4.92	
CA	GTL	.135/min.	.135/min.	N/A	2.03	2.03	N/A	
CO	VAC (GTL)	1.50 + .15/min.	1.25 + .11/min.	1.25 + .10/min.	3.75	2.90	2.75	
CT	Securus	.3245/min.	.2433/min.	.3245/min.	4.87	3.65	4.87	
DE	GTL	1.55 + .11/min.	1.55 + .11/min.	1.55 + .11/min.	3.20	3.20	3.20	2
FL	T-NETIX (Securus)	1.20 + .06/min.	1.02 + .06/min.	1.20 + .06/min.	2.10	1.92	2.10	
GA	GTL	2.00 + .0-.19/min.	1.80 + .0-.17/min.	N/A	2.00-4.85	1.80-4.35	N/A	
HI	Hawaiian Telcom	1.45 + .09-.14/min.	?	?	2.80-3.55	?	?	3
ID	PCS (GTL)	3.80 flat	3.60 flat	3.40 flat	3.80	3.60	3.40	
IL	Securus	3.55 flat	3.55 flat	N/A	3.55	3.55	N/A	4
IN	PCS (GTL)	.24/min.	.24/min.	.24/min.	3.60	3.60	3.60	
IA	ICSolutions and ICN	N/A	N/A	3.15 flat	N/A	N/A	3.15	5
KS	Embarq (CenturyLink) *	.18/min.	.18/min.	.17/min.	2.70	2.70	2.55	
KY	Securus	1.50 + .20/min.	1.50 + .20/min.	1.20 + .16/min.	4.50	4.50	3.60	
LA	Securus	2.15 + .15-.21/min.	1.93 + .14-.19/min.	1.93 + .14-.19/min.	4.40-5.30	4.03-4.78	4.03-4.78	
ME	PCS (GTL)	1.55 + .25/min.	1.55 + .25/min.	.30/min.	5.30	5.30	4.50	6
MD	GTL	.95 + .30/min.	.30/min.	.30/min.	5.45	4.50	4.50	7
MA	GTL	.86 + .10/min.	.86 + .10/min.	.65 + .075/min.	2.36	2.36	1.78	
MI	PCS (GTL)	.20/min.	.20/min.	.18/min.	3.00	3.00	2.70	
MN	GTL	3.00 + .23/min.	N/A	.32/min.	6.45	N/A	4.80	
MS	GTL	2.10 + .24/min.	2.10 + .24/min.	2.10 + .24/min.	5.70	5.70	5.70	
MO	Securus	1.00 + .05/min.	.05/min.	.05/min.	1.75	0.75	0.75	
MT	Telmate	.24 + .12/min.	.24 + .12/min.	.24 + .12/min.	2.04	2.04	2.04	
NE	PCS (GTL)	.70 + .05/min.	.50 + .05/min.	.50 + .05/min.	1.45	1.25	1.25	
NV	CenturyLink *	1.00 + .13/min.	1.00 + .13/min.	1.00 + .13/min.	2.95	2.95	2.95	
NH	ICSolutions	.50 + .01/min.	.20 + .045/min.	.20 + .045/min.	0.65	0.88	0.88	
NJ	GTL	.15/min.	.15/min.	.15/min.	2.25	2.25	2.25	
NM	Securus	.65 flat	.59 flat	.65 flat	0.65	0.59	0.65	
NY	Unisys Corp.	.048/min.	.048/min.	.048/min.	0.72	0.72	0.72	
NC	GTL	3.40 flat	3.40 flat	3.06 flat	3.40	3.40	3.06	
ND	Evercom (Securus)	2.40 + .24/min.	2.40 + .24/min.	.34/min.	6.06	6.06	5.10	8
OH	GTL	1.04 + .322/min.	.832 + .257/min.	.832 + .257/min.	5.87	4.69	4.69	
OK	VAC (GTL)	3.00 flat	3.00 flat	N/A	3.00	3.00	N/A	
OR	Telmate	.16/min.	.16/min.	.16/min.	2.40	2.40	2.40	
PA	Securus	.059/min.	.059/min.	.059/min.	0.89	0.89	0.89	
RI	GTL	.70 flat	.70 flat	.63 flat	0.70	0.70	0.63	
SC	GTL	.99 flat	.75 flat	.75 flat	0.99	0.75	0.75	
SD	VAC (GTL)	3.15 flat	1.35 + .09/min.	1.35 + .09/min.	3.15	2.70	2.70	
TN	GTL	1.853 + .116/min.	1.667 + .105/min.	1.667 + .105/min.	3.60	3.24	3.24	
TX	Embarq (CenturyLink) +	.26/min.	.26/min.	.234/min.	3.90	3.90	3.51	
UT	VAC (GTL)	2.80 + .12/min.	2.80 + .12/min.	2.25 + .10/min.	4.60	4.60	3.75	
VT	PCS (GTL)	1.074 + .133/min.	.855 + .086/min.	.428 + .086/min.	3.07	2.15	1.72	
VA	GTL	2.25 + .25/min.	1.75 + .23/min.	1.75 + .23/min.	6.00	5.20	5.20	
WA	VAC (GTL)	3.50 flat	3.15 flat	3.15 flat	3.50	3.15	3.15	
WV	GTL	.85 + .20/min.	.75 + .18/min.	N/A	3.85	3.45	N/A	
WI	Embarq (CenturyLink) +	.12/min.	.12/min.	N/A	1.80	1.80	N/A	
WY	ICSolutions	1.17 + .17/min.	.98 + .14/min.	.50 + .05/min.	3.72	3.08	1.25	
BOP	Sprint	?	?	?	?	?	?	

Source: Prison Legal News research data 2013-2014

* ICS provided by CenturyLink, with prepaid accounts provided by ICSolutions

+ ICS provided by CenturyLink, with prepaid accounts provided by Securus

Bolded states have currently banned ICS commissions

Intrastate ICS Rates, Revised – Footnotes

- 1 Reflects rates that went into effect on October 1, 2014 based on an order entered by the Alabama Public Service Commission in Docket 15957. The rate for prepaid and debit calls only “shall be reduced to \$0.23/min beginning on the first anniversary of implementation and to \$0.21/min on the second anniversary of implementation.”
- 2 Rates are for intrastate intraLATA calls; although the ICS contract includes separate rates for interLATA calls, Delaware has only one LATA.
- 3 Rates are based on a 2011 email from the Hawaii Department of Public Safety, which confirmed on November 20, 2013 that those rates are still in effect.
- 4 Illinois’ ICS contract changed to Securus in late 2012; the chart reflects 2013 rates.
- 5 Iowa only allows debit calls. The Iowa DOC’s phone service is provided through the Iowa Communications Network (ICN), a state government agency, and a contract with ICSolutions under a fixed monthly lease for “all aspects of the systems and services provided to the ICN....”
- 6 Rates as of November 11, 2014; debit rate drops to \$.25/minute after 31 minutes.
- 7 Maryland’s ICS contract changed to GTL in early 2013; the chart reflects 2013 rates.
- 8 In North Dakota, the rates are \$.30 for the first minute then \$.24/min. thereafter for collect and prepaid intrastate calls (plus the connection/per-call charge).

Note: ICS rates and providers may have changed since this data was compiled by *Prison Legal News* in 2013-2014. Data was obtained from DOC ICS contracts, DOC websites and the Securus rate calculator (<https://www.securustech.net/web/securus/call-rate-calculator>).

Press Releases**Securus Provides Over \$1.3 Billion in Prison, Jail and Government Funding Over the Last 10 Years
Facility Commissions Help to Fund Inmate Welfare Programs, Prison/Jail Operations, and General Government Infrastructure**

DALLAS, TX October 31, 2014/PRNewswire/ -- Securus Technologies, a leading provider of civil and criminal justice technology solutions for public safety, investigation, corrections and monitoring, announced today that over the last ten (10) years, it has collected and remitted to jails, prisons, and state, county, and local governments over \$1.3 billion in the form of commissions. Commissions are collected from inmates and their family and friends on outbound telephone calls that Securus completes over its proprietary inmate calling platform.

The Federal Communications Commission (FCC) eliminated commission payouts on interstate long distance calls effective February 11, 2014, and will likely eliminate or significantly reduce intrastate commissions early in 2015 in an effort to reduce calling rates, provide more affordable calling, and reduce recidivism.

"Part of the heritage of our business is that we calculate, bill, and collect commissions and pay those to jails, prisons, and local, county, and state governments," said Richard A. ("Rick") Smith, Chief Executive Officer of Securus Technologies, Inc. "Clearly these commission payments that have been used to fund critical inmate welfare programs and support facility operations and infrastructure have improved the lives of inmates, victims, witnesses and individuals working in the correctional environment, and helped to fund government operations. And it appears, sadly, that regime may come to an end in the not too distant future," said Smith.

"The FCC initially eliminated interstate commissions on February 14, 2014, and is likely to eliminate or significantly reduce intrastate commissions in an Order expected in 2015. We have been a vocal advocate of maintaining commissions and have spent approximately \$5 million in legal fees and other costs on behalf of our facility customers over the last decade to maintain commissions, but the FCC maintains that it is not good public policy to have the poorest in society help to fund government operations, even though the programs funded are worthwhile."

"No one in the industry was as vocal about defending commissions in the initial rate order as Securus. In fact, it was our lawsuit against the FCC that succeeded in getting many parts of the first order stayed in court. However, if commission payments are eliminated or reduced – we are advocating a transition period that will allow our facility customers to secure funding from other sources or some type of phase-in of the new rules so as not to impact our facility customers – that phase-in is important and we have discussed that with the FCC on numerous occasions."

"The Federal Communications Commission has a tough assignment in trying to balance the needs of inmates and their family and friends, facilities, carriers like Securus, corrections officers, and all of society – a tough assignment for sure! Leave no doubt, Securus will also work hard and fully participate with the FCC to be sure that all of our customers' needs are balanced to the best of our ability," said Smith.

"We provide critical software on our calling platform – approximately 650 different products and features that keep corrections officers, inmates, victims, witnesses, law enforcement, and all of society safe while maintaining critical connections between inmates and their family and friends. We need the FCC to consider the true costs of us providing our services – so we can continue to provide calling in prisons and jails while at the same time making sure that rates are reasonable so inmates can connect with their loved ones. Getting that balance right is critical," added Smith.

About Securus Technologies

Headquartered in Dallas, Texas, and serving more than 2,600 public safety, law enforcement and corrections agencies and over 1,000,000 inmates across North America, Securus Technologies is committed to serve and connect by providing emergency response, incident management, public information, investigation, verification, communication, information management, inmate self-service, and monitoring products and services in order to make our world a safer place to live. Securus Technologies focuses on *connecting what matters*™. To learn more about our full suite of civil and criminal justice technology solutions, please visit www.securustech.net.

For more information, contact:

Richard A. Smith, 972-277-0665
rasmith@securustech.net



EXHIBIT E

State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
PROCUREMENT BUREAU
PO BOX 230
TRENTON, NJ 08625-0230

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

ANDREW P. SIDAMON-ERISTOFF
State Treasurer
JIGNASA DESAI-MCCLEARY
Director

Amendment #: 12

T-1934
Solicitation #: 05-x-32533
Contract #: 61618

TO: Department of Corrections & Juvenile Justice Commission
DATE: September 02, 2014
FROM: Jawad Karamali, IT Specialist
SUBJECT: Inmate/Resident Telephone Control Services
CONTRACT PERIOD: April 01, 2005 – December 03, 2014

Please be advised that the above referenced contract has been extended for a period of three (3) months, commencing on September 04, 2014 and expiring on December 03, 2014. The contracted price for service will also decrease during this period. The rate for interstate and intrastate calls will decrease from \$0.17 to \$0.15 per minute.

All other terms and conditions remain the same.
Please retain this amendment with your Notice of Award for future reference.

**Best and Final Offer (BAFO) COST SUBMITTAL SHEET
RFP Inmate Telephone Services 2013-90**

Offeror's must submit an itemized cost proposal as identified below. PADOc will evaluate the proposed costs and apply the evaluation formula to determine the relative score for each offer. Proposals must include sufficient, detailed information to support the offered costs.

It is the intention of PADOc that all intrastate calls (collect, prepay, or prepaid/debit) have one flat fee rate. This includes all local, IntraLATA and InterLATA calls. With all call rates remaining consistent during any time of day or day of the week. These rates are subject to any Federal and State regulations or Legislative action. Interstate call rates are to be provided separately.

PADOc understands that the rates shown below are exclusive of Federal, State, Local Taxes, Tariff's and Regulatory Fees. It is understood that these taxes/fees will be charged as a pass-through from the taxing/regulating agency to the called party and that no commission will be paid on these items.

			Avg Minutes	# of calls for FY 2012 5,348,000	Estimated Revenue FY 2012
Blended per Minute Rate for all Intrastate Calls(Local, Interlata , Inralata) 97%	97.00%	0.0590	11	5,187,560	3,366,726
Interstate Call per Minute Rate - 3%	3.00%	0.0590	11	160,440	104,126

* International call rate not included in scoring

Total Minute Cost to Compare 3,470,852

Note: *The lowest Blended per Minute Rate receives 60% of the maximum cost points allowed. All other proposals receive a percentage of the points available based on their cost relationship to the lowest.

COMMISSION



STATE OF ARIZONA

NOTICE OF REQUEST FOR PROPOSAL

REQUEST FOR PROPOSAL NUMBER ADOC14-00003887/14-066-24PROPOSAL DUE DATE May 1, 2014 AT 3:00 P.M. M.S.T.

In accordance with A.R.S. § 41-2534, competitive sealed proposals for the materials or services specified will be received by the Department of Corrections through the electronic procurement system ProcureAZ at <https://procure.az.gov/bsol/>. Proposals received by the correct time and date will be opened on-line.

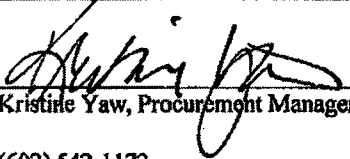
Late proposals will not be considered.

A Pre-Proposal Conference and On-site Inspections have been scheduled. For details, please see page 3, Special Terms and Conditions, Paragraph 1.2.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE REQUEST FOR PROPOSAL.

REQUESTING AGENCY:	Arizona Department of Corrections
SERVICE:	Inmate Telephone System
LOCATION:	Statewide
CONTRACT TYPE:	Fixed Price
CONTRACT TERM:	Five (5) Year with Five (5) Year Renewal Option

An Equal Employment Opportunity Agency


 Kristine Yaw, Procurement Manager

(602) 542-1172
 PHONE

March 6, 2014
 DATE


 DEON GEORGE CHIEF PROCUREMENT OFFICER

Description: Inmate Telephone System

**TABLE OF CONTENTS:
SOLICITATION DOCUMENTS**

Special Terms and ConditionsPage 3-17

Scope of WorkPage 18-55

Solicitation Attachments.....see ProcureAZ file titled "Solicitation Attachments"

- Certificate of Insurance (sample)
- Checklist
- Attachment #1 Rules for Non-Employees of the Department of Corrections in Arizona State Prison Complexes
- Attachment #2 Proposed Commission Rate
- Attachment #3 Management Criteria
- Attachment #4 Inmate Phone Locations
- Attachment #5 Current Inmate Capacity and Phone Type
- Attachment #6 Current Call Rates
- Attachment #7 Prison Site Visit Schedule
- Attachment #8 Phone Availability Information
- Attachment #9 Deviations and Exceptions Form
- Attachment #10 Confidential/Proprietary Submittals Form
- Performance Bond
- Payment Bond

Offer and Acceptance.....Page 56

Uniform Terms and Conditionssee ProcureAZ file titled "Uniform T's & C's"

Uniform Instructions.....see ProcureAZ file titled "Uniform Instructions to Offerors"

Special Instructions to Offerors.....see ProcureAZ file titled "Special Instructions to Offerors"

3 COST AND COMMISSION REQUIREMENTS

3.1 Inmate Call Cost Proposal Requirements

3.1.1 The Contractor's response to this RFP must comply with the rate or rates for local, IntraLata, InterLata, InterState, and International inmate calls, as identified in Attachment #6. Arizona Department of Corrections reserves the right to increase and/or decrease rates within the duration of this contract.

3.2 Commission

3.2.1 The successful Contractor will demonstrate in their proposal their method to maximize the commission to the Department. As a guideline, the Department currently receives a commission of approximately \$4 million dollars annually, based on a commission rate of 53.7% of the Gross Revenue generated from the existing contract. The current phone rates to inmates and families are shown in Attachment #6, Current Call Rates.

3.2.2 The Contractor's proposal shall provide the proposed percentage commission of Gross Revenue the Department will receive based on the current call usage identified in Attachment #2, Proposed Commission Rate.

3.2.3 Commissions will be paid to Department as follows:

3.2.3.1 Contractor will make an upfront payment to the Department within 10 days from contract award date and a true-up payment based on their proposed % commission rate of gross revenue at contract year end. The upfront payment will be calculated as 50% of the commission rate times the previous year total costs. This will continue with the 5 year contract term and with 5 year renewal options. Calculation example follows.

3.2.3.2 Example: Annual gross revenue is \$8,170,448.84 million. Proposed commission is 45%. Annual commission amount due to the Department is (\$8,170,448.84 million times 45% = \$3,676,701.90 million). The upfront payment due to the Department is {50% times (45% times \$8,170,448.84 million) = \$1,838,350.90}. A true up payment shall be made at the end of each contract year for the balance for the commission.

3.3 Attachment #6, Current Call Rates, indicates the current average phone rates under the existing contract for comparison purposes.

CURRENT CALL RATES

Inmate Phone Rates as of February 28, 2014

InterLATA calls are placed within a LATA (Local Access Transport Area) and received in a different LATA. These calls are carried by a long distance company and are a type of a Long Distance call.

Interstate refers to between states (crossing a state line).

A Local Call is any call within the local service area of the calling phone.

IntraLATA calls represent Telecommunications services that originate and end in the same Local Access and Transport Area (LATA).

International calls are provided by carriers that provide connections between a customer located in World Zone 1 and a customer located outside of World Zone 1. World Zone 1 is generally identified as the North American Numbering Plan, (United States of America). This type of call must pass through an International Switching Carrier (ISC), which is an exchange whose function is to switch telecommunications traffic between national network and the networks of other countries. Also known as an international gateway.

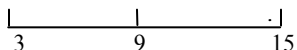
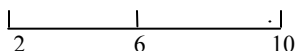
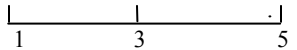
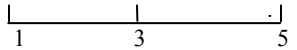
Note: A LATA is defined as one of 161 local geographical areas in the US within which a local telephone company may offer telecommunications services – local or long distance. AT&T is expressly prohibited from offering intraLATA calls by the terms of the Divestiture. Other competitors, such as MCI and Sprint, are not, though rules vary by state, according to state regulation. The State of Arizona has a LATA boundary just north of Marana.

Call Type:	Surcharge	Rate/Minute	Total Cost of 15 minute call
Collect			
Local	\$1.84	\$0.00	\$1.84
IntraLATA	\$2.00	\$0.20	\$5.00
InterLATA	\$2.40	\$0.24	\$6.00
Interstate	\$0.00	\$0.25	\$3.75
International	N/A	N/A	N/A

PrePaid			
Local	\$1.60	\$0.00	\$1.60
IntraLATA	\$1.60	\$0.20	\$4.60
InterLATA	\$2.00	\$0.24	\$5.60
Interstate	\$0.00	\$0.21	\$3.15
International	\$2.00	\$0.40	\$8.00

Debit (Inmate Paid when available)			
Local	\$1.60	\$0.00	\$1.60
IntraLATA	\$1.60	\$0.20	\$4.60
InterLATA	\$2.00	\$0.24	\$5.60
Interstate	\$0.00	\$0.21	\$3.15
International	\$2.00	\$0.40	\$8.00

Inmate Telephone System (IPS) Evaluation Summary and Scoring
Solicitation No. ADOC14-00003887 / ADC No. 14-066-24

CRITERION 1 – Commission Rate	Available Points	SCALE	CenturyLink Public Communications, Inc.	Global Tel*Link Corporation	Securus Technologies, Inc	Telmate
Commission Rate:	1500	Calculated at the rate of 15 points for every percentage of commission. (For example: 60.0 % commission rate = 60.0 X 15 = 900 points).	Points: 1408.50 Commission rate: 93.90%	Points: 1410 Commission rate: 94%	Points: 1249.50 Commission rate: 83.30%	Points: 1080 Commission rate: 72.00%
CRITERION 1 Total Available Points:			Total Points: 1408.50	Total Points: 1410	Total Points: 1249.50	Total Points: 1080
CRITERION 2 – Technical Requirements	Available Points					
Introduction/IPS Components 2.4.3	15		Points: 12 Exceeds Requirements S = being able to handle all calls simultaneously. Has the ability to shutdown a specific facility or yard at specified time 2.4.3.20. ICER program detects inmate to inmate calling.	Points: 12 Exceeds Requirements S = being able to handle all calls simultaneously. Has the ability to shutdown a specific facility or yard at specified time 2.4.3.20. Caller IQ program detects inmate to inmate calling. The system allows inmate family to unblock numbers previously blocked 2.4.3.24.	Points: 12 Exceeds Requirements S = Provides secondary database and an off-site tape backup, effectively creating a third redundancy location. 3 way calling tested by an independent party. Being able to handle all calls simultaneously. THREADS investigative tool is good.	Points: 15 Significantly Exceeds Requirements S= Live operators review every flagged “3-Way Suspected” call to ensure accuracy and eliminate false positives. Reports are issued on relevant calls drastically reducing staff resources. 100% simultaneously call usage. Telmate Investigator included. Provides secondary database and an off-site tape backup, effectively creating six redundancy locations. Has the ability to import voice bio-metric from hand held recorders.
Personal Identification Numbers (PINs) 2.4.4	10		Points: 6 Meets Requirements Continuous voice bio-metric is available and at a reduced commission rate.	Points: 6 Meets Requirements S = Basic voice bio-metric is included. Continuous voice bio-metric is available and at an additional cost.	Points: 8 Exceeds Requirements S = Basic voice bio-metric is included. Continuous voice bio-metric Investigator Pro is available and is included.	Points: 8 Exceeds Requirements S = Continuous voice bio-metric is included. Ability to update staff and vendor voice bio-metric.
General System Management Requirements 2.4.5	5		Points: 3 Meets Requirements S = HTTPS a secured website can access anywhere with login.	Points: 3 Meets Requirements S = HTTPS a secured website can access anywhere with login.	Points: 3 Meets Requirements S = HTTPS a secured website can access anywhere with login.	Points: 3 Meets Requirements S = HTTPS a secured website can access anywhere with login.
Restrictions, Fraud Control			Points: 4 Exceeds Requirements S= three options were given for possible	Points: 3 Meets Requirements S = IQ technology available with strong	Points: 5 Significantly Exceeds Requirements	Points: 5 Significantly Exceeds Requirements

Arizona Department of Corrections



JANICE K. BREWER
GOVERNOR

1601 WEST JEFFERSON
PHOENIX, ARIZONA 85007
(602) 542-5497
www.azcorrections.gov



CHARLES L. RYAN
DIRECTOR

September 17, 2014

Paul Cooper, General Manager
CenturyLink Public Communications, Inc.
5454 West 110th Street
Overland Park, Kansas 66211
Email: paul.n.cooper@centurylink.com

Re: Request for Proposal (RFP) No. ADOC14-00003887/14-066-24
Inmate Telephone System
Letter of Intent to Award

Dear Mr. Cooper:

Congratulations! After careful consideration, CenturyLink Public Communications, Inc. (CenturyLink) has been selected for award by the Arizona Department of Corrections for the above referenced RFP. The Department is looking forward to working with CenturyLink on this endeavor.

Please be advised that award is contingent upon receipt of the Certificate of Insurance meeting the mandatory requirements as specified in the RFP, in addition to a fully executed Statutory Performance and Payment Bonds (DOC Forms 302 and 303). The bonds shall be in the amount of \$7,672,051.00 which is 93.90% of \$8,170,448.84 (total gross sales for 2013).

Please provide all necessary documents to Procurement Services within five (5) working days of this letter. Should CenturyLink be unable to provide all the contingent items within the timeframe specified, the selection for award may be withdrawn.

Thank you for your participation and interest in the Inmate Telephone System RFP.

If you have any questions regarding this matter, please feel free to contact Kristine Yaw, Procurement Manager responsible for this contract or myself at 602-542-1172.

Sincerely,



Leon George
Chief Procurement Officer

LG/ky

Attachment: DOC Forms 302 and 303

Procurement Services, 1601 W. Jefferson, Phoenix, Arizona 85007, Mail Code 55302
Fax: 602-364-3780

EXHIBIT H

James E. Cecchi
Lindsey H. Taylor
CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO
5 Becker Farm Road
Roseland, New Jersey 07068
(973) 994-1700

James A. Plaisted
Lin C. Solomon
WALDER, HAYDEN & BROGAN, P.A.
5 Becker Farm Road
Roseland, New Jersey 07068
(973) 992-5300

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BOBBIE JAMES, CRYSTAL GIBSON, BETTY
KING, BARBARA SKLADANY, MARK
SKLADANY, MILAN SKLADANY, and DR.
JOHN F. CROW, on behalf of themselves and all
others similarly situated,

Plaintiffs

v.

GLOBAL TEL*LINK CORPORATION,
INMATE TELEPHONE SERVICE, and DSI-ITI
LLC,

Defendants.

Civil Action No.:

**COMPLAINT and
DEMAND FOR JURY TRIAL**

Plaintiffs Bobbie James, Crystal Gibson, Betty King, Barbara Skladany, Mark Skladany, Milan Skladany, and Dr. John F. Crow by way of Complaint against Defendants Global Tel*Link Corporation, Inmate Telephone Service, and DSI-ITI, LLC, say:

NATURE OF THE ACTION

1. This is a consumer class action for violations of federal law and New Jersey state law arising from (a) Defendants' abuse of their monopoly power over phone calls made from New Jersey by prisoners by charging rates, more than 100 times higher than market rates; (b) Defendant's abusive, discriminatory and unreasonable phone charges whereby Defendants

permit New Jersey prisoners to make collect calls but only to family, friends and lawyers who open credit/debit accounts and who customarily are required to make substantial advance payments to Defendants from which charges of as much as 20% of the deposit are siphoned off at opening and again at closing of the accounts as “administrative costs”; (c) Defendants’ failure to fully and adequately disclose to their customers charges that they will incur in connection with their use of Defendants’ telephone service and the rates that will be charged for calls made using Defendant telephone service; (d) Defendants’ failure to disclose to their customers certain practices followed by Defendants in connection with their telephone service that adversely affect their customers’ accounts; (e) Defendants’ practices of forfeiting balances in accounts when the account is not used for 90 days after that Defendants require that the accounts be opened with minimum payments of \$25, \$50 or \$100.

2. Defendants’ wrongful conduct involves relatively small amounts of damages for each class member and Defendants are carrying out a scheme to deliberately cheat large numbers of consumers out of individually small sums of money. Plaintiffs bring this action in their own right and on behalf of all other persons similarly situated.

JURISDICTION AND VENUE

3. Jurisdiction is proper in this Court by 28 U.S.C. 1332(d) because the amount in controversy exceeds \$5 million, exclusive of interest and costs, and at least one class member is a citizen of a state other than that of a defendant. Jurisdiction is also proper in this Court pursuant to 28 U.S.C. § 1331 because this matter involves federal questions whether there are violations of 47 U.S.C. § 201 *et seq.* and 42 U.S.C. § 1983 and the Court has supplemental jurisdiction over Plaintiffs’ state law claims because they arise from a common nucleus of

operative facts and are such that Plaintiffs ordinarily would expect to try them in one judicial proceeding.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) in that all Defendants transact substantial business within, and are subject to personal jurisdiction, in this judicial District and thus “reside” in this District and because a substantial part of the events giving rise to the claims asserted herein took place in this judicial District.

PARTIES

6. Plaintiff Bobbie James is, and at the times relevant to the claims alleged herein was, a citizen of the State of New Jersey and resides in Newark, New Jersey.

7. Plaintiff Crystal Gibson is, and at the times relevant to the claims alleged herein was, a citizen of the State of New Jersey and resides in Newark, New Jersey.

8. Betty King is, and at the times relevant to the claims alleged herein was, a citizen of the State of New Jersey and resides in East Orange, New Jersey.

9. Plaintiff Barbara Skladany is, and at all times relevant to the claims alleged herein was, a citizen of the State of New York, residing in New York, New York.

10. Plaintiff Mark Skladany is, and at the times relevant to the claims alleged herein was, a citizen of the State of New Jersey and was housed in New Jersey correctional facilities, in the Somerset County Jail during the period approximately September 2010 to September 2012 and then thereafter in the New Jersey State Prison at Yardville, New Jersey.

11. Plaintiff Milan Skladany is, and at all times relevant to the claims alleged herein was, a resident in the State of New Jersey until approximately 2011 when he returned to the Slovak Republic where he is a citizen.

12. Plaintiff Dr. John F. Crow is, and at all times relevant to the claims alleged herein was, a citizen of the State of New York, residing in New York, New York.

13. As used herein, "Plaintiffs" shall mean and refer to all Plaintiffs identified in ¶6 to ¶12, together.

14. Defendant GTL is, and at all times relevant hereto was, a privately held Delaware corporation with its principal place of business located in Mobile, Alabama.

15. Defendant ITS is a wholly owned subsidiary of GTL and a Delaware corporation with its principal place of business in Mobile, Alabama.

16. Defendant DSI-ITI is a Delaware limited liability company and, upon information and belief, is the successor-in-interest to ITS. Upon information and belief, GTL is the sole owner and member of DSI, and DSI-ITI assumed all of ITS' existing contracts as of June 10, 2010.

12. Defendants provide managed telecommunications services at state and local correctional facilities in New Jersey and elsewhere in the United States so inmates can communicate with family members, friends, attorneys and other approved persons outside the correctional facilities.

**DEFENDANTS' UNFAIR, UNCONSCIONABLE AND DECEPTIVE
BUSINESS PRACTICES**

13. AT&T bid and won a New Jersey contract in 2002 to provide all telecommunications services to inmates in the State of New Jersey's correctional facilities.

14. AT&T sold the New Jersey contract rights to be the sole telecommunications provider for New Jersey inmates to GTL in 2002.

15. Plaintiffs presently do not have information with respect to the arrangements between GTL, ITS and/or DSI-ITI as to which entity customers purportedly deal with and which

entity purportedly provides what service to customers. However, regardless of which entity does what, GTL, ITS and DSI-ITI have operated as a single economic unit with respect to the telephone services described herein.

16. Defendants have the sole right to provide telecommunications services which enable incarcerated persons to communicate by telephone with family members, friends and other persons outside certain New Jersey state and county prison and detainee facilities.

17. Defendants remit to the State approximately 40% of the rates charged for the right to have a monopoly over phone services at certain State prisons and detainee facilities.

18. Defendants ITS and DSI-ITI remit 50% or more to Essex, Monmouth, Bergen, Hudson, among other counties, for the rights to have a monopoly over phone services provided by those county prisons and detainee facilities.

19. According to publicly available information, the State of New Jersey alone receives \$4.42 million per year as its percentage of revenue pursuant to its contract with GTL. Based upon that figure, upon information and belief, the percentages paid to the various counties should be greater. Further, this information would indicate that Defendants' total revenue from calls placed from New Jersey detention facilities would be in tens of millions of dollars per year.

20. Defendant GTL has used the existing contract with the State of New Jersey as a basis for its subsidiary ITS and DSI-ITI to enter similar agreements with many County prison facilities such as Essex, Hudson, Monmouth and Bergen Counties among others.

21. As a result of the foregoing contracts, since 2002, Defendants have been the sole telecommunications provider for persons held in certain New Jersey State prison or detention facilities to communicate by telephone with family members, friends and other persons.

22. Because of the exclusive provider position and the literally captive market, Defendants are able to exploit customers by charging them unconscionably excessive rates for calls, as well as unconscionable and undisclosed fees and connection charges, without regard to what other providers of prepaid calling services are charging in the marketplace.

23. Upon information and belief, Defendants purchase their minutes for calls terminating within the United States for less than 3/10 of a penny per-minute, and Defendants often resell the minutes it buys at more than 100 times their cost to Plaintiffs and other Class Members.

24. The market rate for competitively priced prepaid calling cards is approximately 1¢ to 2¢ per minute for calls within the United States. Depending upon the country being called, the rates for international calls can be as low as 1¢ per minute. Defendants, however, charge approximately 30¢ per minute for calls within the United States. Defendants likewise charge exorbitant rates for international calls.

25. The vast majority of Defendants' customers establish their accounts over the phone. When a prisoner wishes to call someone outside the detention facility, they must place a collect call to that person. However, rather than an operator asking the called person whether they will accept the charges for the call, a series of prompts routes the called person whereby the called person is informed they must set up an account with Defendants in order to accept the call. The same automated procedures are followed when customers seek to open an account by calling the Defendants' 800 number provided at the prison facility to customers.

26. Using standardized scripts and prompts, the Defendants' system sets up an account for the customer or called person using a credit or debit card provided by the customer. These accounts must be set up in amounts of \$25, \$50, or \$100. After the account is set up, the

called person is then provided with a PIN so he or she may accept calls from the prisoner in the future and charges for all calls are deducted from the called persons' account.

27. Customers are told by Defendants that no information on rates and charges are available until they have an account number.

28. Customers of Defendants are not provided a written contract when they establish an advance pay account with Defendants by telephone, nor are they advised of any of the terms and conditions applicable to their account.

29. Defendants do not issue account statements in writing or electronically to customers in the ordinary course of business. When making or receiving a call, the customer is given a voice prompt advising the customer how much money is left in their account, but a customer cannot obtain an itemized statement of charges to their account, nor can the customer determine how many minutes of calling time they have left because Defendants do not disclose rates and applicable charges.

30. Defendants fail to inform their customers that they will be charged a service or set-up fee which will be deducted from their advance pay balance, when an account is first established.

31. Defendants charges an unconscionable service fee of approximately 20% of the deposit, *i.e.* \$4.75 out of the first \$25.00 deposit, \$9.50 out of the first \$50.00 deposit, and \$19.00 out of the first \$100.00 deposit, when an account is first established, and whenever an account is recharged. In essence, Defendants charge their customers for the ability to pay for Defendants' services.

32. Defendants fail to inform their customers when an account is first established that they will be charged fees (a per-call transaction or connection fee) for each call placed in addition to the call rates per minute.

33. Defendants charge upwards of \$1.75 per call as a connection or transaction fee.

34. Defendants charge a \$5.00 fee to close an account and obtain a refund of any remaining balance. However, Defendants fail to inform their customers when an account is first established that they will be charged this additional service fee to close the account.

35. Defendants fail to inform their customers when an account is first established that their account balances will be forfeited if they do not use Defendants' service for a 90-day period.

36. Defendants fail to inform their customers when an account is first established that a monthly inactivity fee will be charged against their account for any months when it is not used.

37. Because customers must purchase calling time in multiples of \$25, \$50, or \$100 and must establish an account in advance of paying for calls, it is inevitable that customers will not use the exact amount of money in their account. As a result, every customer will incur either the \$5.00 fee to close their account or will forfeit their account as a result of it being inactive for 90 days.

38. Defendants also fail to advise customers that the customers' account may be frozen if Defendants deem the amount remaining in the account to be too little to accept calls from an inmate. In order to unfreeze the account so he or she can receive calls, the customer must recharge his or her account, while incurring service charges of 20% of the amount deposited in doing so.

PLAINTIFFS' EXPERIENCE WITH DEFENDANT

39. Each of the Plaintiffs set up their accounts in accordance with the procedures set forth above. Defendants did not disclose to any of the Plaintiffs the rates applicable to their calls, nor did they disclose any of the fees and other charges applicable to their accounts, as described above.

40. Plaintiff Bobbie James became a customer of Defendants in approximately April 2011 in order to communicate with her grandson in Essex County Jail. She had helped raise and support her grandson prior to his incarceration and established the advance pay account with GTL in order to continue to communicate with him.

41. Ms. James often deposited \$25 into her accounts which permitted her to speak with one of her grandsons approximately three times a week approximately 15 minutes total calling time. The remainder of the \$25 deposit is eaten up by fees and charges.

42. Plaintiff Crystal Gibson became a customer of GTL in approximately September of 2010 when her significant other was incarcerated in the Essex County Jail in New Jersey.

43. Defendants charged Ms. Gibson a cancellation or closure fee in order for her to get a refund of the balance in her account.

44. Defendants also charged Ms. Gibson an inactivity fee of approximately \$1.49 per month when her account was not used.

45. Defendants' representative told Ms. Gibson that Defendants were charging her an extra and additional fee for establishing an account because she used a live operator and did not follow the scripted automated system when she first set up her account.

46. Betty King is a senior citizen who opened an account with Defendants to receive phone calls from her brother who is an inmate at the East Jersey State Prison in Rahway, Middlesex County, New Jersey.

47. Mrs. King has never spoken with a representative of Defendants but has signed up as a customer through Defendants automated phone system.

48. From at least 2002 Mrs. King has deposited hundreds of dollars into her account and her brother calls her regularly.

49. Mrs. King normally deposits either \$25 or \$50 into the Defendants account.

50. Defendants have never provided Mrs. King with any statement of her account.

51. Defendants have never informed Mrs. King of the fees, rates and other charges which are imposed on her for using the prepaid service.

52. Plaintiff Barbara Skladany became a customer of GTL in or about 2010, when she established an advance pay account with GTL in order to communicate by telephone with her son, Mark Skladany, who was incarcerated in the Somerset County Jail. During the period of Mark's incarceration, Barbara Skladany has made deposits of many hundreds of dollars into her accounts with Defendants.

53. Plaintiff Milan Skladany, who was then a resident of Somerset County, became a customer of GTL in and around 2010 when he established an advance pay account with GTL in order to communicate with his son, Mark Skladany, who was incarcerated in the Somerset County Jail.

54. Plaintiff Mark Skladany deposited money in a pay phone account from his resources available while he was in prison to fund advance pay accounts for him to make calls from prison to his parents, lawyers, relatives and friends.

55. During that time, Ms. Skladany has had to pay service fees to open and recharge her account and connection fees with respect to calls received from her son, Mark, as described above.

56. Mark Skladany was moved to different institutions at various times in 2011 and 2012. As a result of a move, Ms. Skladany's existing account was no longer valid to receive calls from Mark, so she had to set up another account. In doing so, she incurred additional service fees, as well as a \$5 charge to close her prior account and receive a refund of the amounts remaining in her old account.

57. At various times during the time that Ms. Skladany has maintained an account for Mark with the Defendants, the Defendants have frozen her account pending verification of calls made by Mark and required additional prepayments even before the advance pay balance was depleted in order to continue to receive telephone calls from Mark.

58. Despite many requests, Defendants refused to provide Barbara Skladany and Milan Skladany with written statements of their accounts identifying charges and rates.

59. Dr. Crow became a customer of GTL when he established an advance pay account in April 2013 in order to communicate by telephone with his son who was incarcerated in the Mercer County Correctional Facility, Lambertville, New Jersey.

60. Defendants forfeited the balance in Dr. Crow's account in approximately July of 2013.

CLASS ACTION ALLEGATIONS

61. Plaintiffs bring this action, on behalf of themselves and all others similarly situated, as a class action pursuant to Fed.R.Civ.P. 23. Subject to confirmation, clarification

and/or modification based on discovery to be conducted in this action, the class that Plaintiffs seek to represent (“the Class”) shall be defined as follows:

all persons of the United States who, at any time since 2002 were incarcerated in a New Jersey prison institution who use or used the phone system provided by Defendants or, who established an advance pay account with Defendants in order to receive telephone calls from a person incarcerated in New Jersey.

62. As used herein, “Class Members” shall mean and refer to the members of the Class as set forth above.

63. This action is brought and properly may be maintained as a class action pursuant to the provisions of Fed.R.Civ.P. 23(a)(1)-(4) and 23(b)(1), (b)(2) or (b)(3) and satisfies the requirements thereof.

64. **Numerosity – Fed.R.Civ.P. 23(a)(1).** The members of the Class are so numerous that individual joinder of all the members is impracticable. On information and belief, there are not less than tens of thousands of persons who have been affected by Defendants’ conduct. The precise number of Class members and their addresses is presently unknown to Plaintiff, but may be ascertained from Defendants’ books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice.

65. **Commonality and Predominance – Fed.R.Civ.P. 23(a)(2) and 23(b)(3).** Common questions of law and fact exist as to the class members, as required by Fed.R.Civ.P. 23(a)(2), and predominate over any questions that affect only individual class members within the meaning of Fed.R.Civ.P. 23(b)(3).

66. The common questions of fact include, but are not limited to, the following:

- (a) whether Defendants have failed to fully and adequately disclose to Plaintiffs and the other Class Members service charges to open and close the account that are assessed to the class members in connection with their use of Defendant's telephone service;
- (b) whether Defendants have failed to fully and adequately disclose to Plaintiffs and the other Class Members Defendant's practice of forfeiting the advance pay balance of their accounts whenever accounts remain unused for 90 days and charging monthly inactivity fees;
- (c) whether Defendants have failed to fully and adequately disclose to Plaintiffs and the other Class Members the per-minute rates that they will be and have been charged when calls are made to them by incarcerated persons;
- (d) whether Defendants' practice of requiring advance fee deposits with such charges, fees and forfeitures is a practice which warrants restitution or treble damages under the New Jersey Consumer Fraud Act;
- (e) whether Defendants' charging rates for phone calls that are a 100 times or more higher than the rates at which they are acquired and charging such opening, closing, transactional and forfeiture fees without disclosure of the amounts at the times of sale are unconscionable commercial practices and/or are practices constituting unfair enrichment; and
- (f) whether Plaintiffs and the other Class Members have sustained ascertainable losses and damages as a result of Defendant inflated and abusive charges and practices of non-disclosure and, if so, the proper measure and appropriate formula to be applied in determining such damages.

67. The questions of law that are common to Plaintiffs and the other class members include, but are not limited to, the following:

- (a) whether the practices of Defendant complained of herein and/or Defendant's failure to make full and adequate disclosures to their customers concerning such practices violate §201(b) of the Federal Communications Act and regulations thereunder and/or 48 N.J.S.A. § 48:3-1 and § 48:3-2;
- (b) whether the practices of Defendant complained of herein and/or Defendant failure to make full and adequate disclosures to their customer concerning such practices violate one or more provisions of the New Jersey Consumer Fraud Act ("CFA") and regulations promulgated thereunder;

- (c) whether the practices of Defendant complained of herein and/or Defendant's failure to make full and adequate disclosures to their customer concerning such practices constitute unfair, unlawful and/or fraudulent business practices which warrant a refund as unjust enrichment or treble damages under New Jersey law;
- (d) whether the inflated and abusive charges levied by the Defendants upon their customers pursuant to the exclusive monopoly rights granted by the State and County government constitutes an illegal taking in violation of 42 U.S.C. §1983; and
- (e) whether Plaintiffs and the other Class Members are entitled to the declaratory relief sought herein.

68. **Typicality – Fed.R.Civ.P. 23(a)(3).** Plaintiffs' claims are typical of the claims of the other class members whom they seek to represent under Fed.R.Civ.P. 23(a)(3) because Plaintiffs and each of the Class Members have been subjected to the same wrongful practices and have been damaged thereby in the same manner.

69. **Adequacy of Representation – Fed.R.Civ.P. 23(a)(4).** Plaintiffs will fairly and adequately represent and protect the interests of the class members as required by F.R.Civ.P. 23(a)(4). Plaintiffs are adequate representatives of the Class because they have no interests that are adverse to the interests of the other Class Members. Plaintiffs are committed to the vigorous prosecution of this action and, to that end, Plaintiffs have retained counsel who are competent and experienced in handling class action litigation on behalf of consumers.

70. **Superiority – Fed.R.Civ.P. 23(b)(3)** A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and each of the other Class members are relatively small compared to the burden and expense that would be required to individually litigate their claims against Defendants, so it would be impracticable for Class members to individually seek

redress for Defendants' wrongful conduct. Even if Class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

71. **Declaratory and Injunctive Relief – Fed. R.Civ.P. 23(b)(2)** In the alternative, this action is certifiable under the provisions of Fed.R.Civ.P. 23(b)(1) and/or 23(b)(2) because:

- (a) the prosecution of separate actions by individual Class Member would create a risk of inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for Defendant;
- (b) the prosecution of separate actions by individual Class Member would create a risk of adjudications as to them that would, as a practical matter, be dispositive of the interests of the other Class Members not parties to the adjudications or substantially impair or impede their ability to protect their interests; and
- (c) Defendant have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole and necessitating that any such relief be extended to the class members on a mandatory, class wide basis.

72. Plaintiffs are aware of no difficulty that will be encountered in the management of this litigation that will preclude its maintenance as a class action.

FIRST COUNT
(Violation of the New Jersey Consumer Fraud Act)

73. Plaintiffs repeat and incorporate herein by reference each and every allegation in paragraphs 1 through 72 as though fully set forth herein.

74. Plaintiffs bring this claim pursuant to the New Jersey Consumer Fraud Act (“CFA”).

75. The CFA applies to Defendant’s actions and conduct described herein because it extends to transactions that are intended to result, or that have resulted, in the sale of services to consumers with a nexus to New Jersey, *i.e.*, telephone calls placed from New Jersey.

76. Plaintiffs and each Class Member are “consumers” within the meaning of CFA.

77. The telephone service that Plaintiffs and Class Members obtained from Defendants comes within the definition of “services” set forth in CFA.

78. Defendants have engaged in fraudulent and/or deceptive commercial practices in violation of the CFA by charging excessive, undisclosed fees and charges as described above.

79. In addition, Defendants have engaged in an unconscionable commercial practice in violation of the CFA by charging excessive per-minute phone rates which are grossly in excess of Defendants cost, and grossly in excess of the market price for phone calls, which they are able to charge only because they have a monopoly on phone calls from designated detention facilities, free from competition.

80. Likewise, Defendants’ undisclosed fees are unconscionable in that Defendants provide no services and Plaintiffs receive no benefit in return for those charges and/or the fees and charges are grossly in excess of the incremental cost to Defendants for the activity for which the fees and charges are imposed.

81. Plaintiffs and other Class Members have suffered an ascertainable loss as a result of Defendants violations by having to pay the foregoing excessive, undisclosed charges and fees, as well as having to pay excessive rates for making or receiving telephone calls from New Jersey inmates, as described above.

82. Further, unless Defendants are enjoined from continuing to engage in these violations of the CFA, Plaintiffs and the other class members will continue to be injured by Defendant's actions and conduct.

SECOND COUNT
**(Violations of the Disclosure Requirements
of the CFA effective August 1, 2008)**

83. Plaintiffs repeat the allegations contained in Paragraphs 1-82 as if fully set forth herein.

84. New Jersey amended the CFA effective on August 11, 2008 to require certain additional disclosure requirements specifically applicable to prepaid telephone calling services, such as those offered by Defendants described above, to those who purchase those services, such as Plaintiffs and other Class Members.

85. N.J.S.A. § 56:8-176(h) provides that a prepaid telephone service company "shall not impose any fee or surcharge that is not disclosed as required by this section or that exceeds the amount disclosed by the company."

86. New Jersey has adopted pertinent rules and regulations to enforce the requirements of N.J.S.A. §56:8-176(h) which requires specific disclosures at the time of solicitation or sale.

87. Those regulations provide that the amendment to the CFA and regulations promulgated pursuant thereto requiring disclosure by pre-paid telephone services are a supplement to the enforcement and prosecutions of other practices unlawful under the CFA.

88. As described above, Defendants did not disclose their fees, surcharges and forfeiture policies when it required Plaintiffs to first open an account and purchase the right to receive calls.

89. As described above, Defendants did not disclose the amounts of fees, surcharges and forfeiture policies to customers who received a collect call for the first time from an inmate.

90. Defendants informed customers, like Plaintiffs, in the initial set up call that their telephone service was not programmed to receive collect calls and that they must open an account with Defendant and prepay that account in the amount of \$25, \$50, or \$100 or they could not receive calls. Defendants did not disclose any specific set-up or closure fees or surcharges or inactivity fees to be deducted and charged to customer's accounts at the time of the sale, as required by the N.J.S.A. § 56:8-176(a)(3) and applicable regulations.

91. Defendants did not disclose that balances unused for 90 days would be forfeited when customers received their first invitation to purchase the rights to receive calls and open an account as required by N.J.S.A. § 56:8-176(a)(3).

92. Defendants did not refer new customers to their websites in the first automated calls inviting customers to purchase the right to receive calls and open an account.

93. Defendants web-site *now* references that there will be fees but that website fails to disclose the amounts of any set-up, closure or forfeiture fees as required by the N.J.S.A. § 56:8-176(a)(3).

94. Defendants, up through the filing of the action, failed to disclose any specific fee amount that would be charged or forfeited by the customers at the time of sale as required by N.J.S.A. § 56:8-176(a)(3).

95. Defendants also violate N.J.S.A. § 56:8-176(a)(8) by failing to disclose information required to be disclosed by regulations enacted by the Department of Consumer Affairs. Those violations include failing to disclose:

- a. Any surcharges and call setup charges, in violation of N.J.A.C. § 13:45A-8.3(a)(1);
- b. The name of the provider of the actual calling services, in violation of N.J.A.C. § 13:45A-8.3(a)(2)(i);
- c. The expiration period of the customer's account, in violation of N.J.A.C. § 13:45A-8.3(a)(2)(v);
- d. That the service is subject to maintenance and other fees and charges, in violation of N.J.A.C. § 13:45A-8.3(a)(2)(vi);
- e. Instructions as to how to obtain complete information about the use of the calling services, including fees and charges for, and any restrictions or limitations on the use of the account, in violation of N.J.A.C. § 13:45A-8.3(a)(2)(vii)

96. Defendants also violate N.J.A.C. § 13:45A-8.4 in that they charge fees, taxes, surcharges and other amounts which are not permitted fees and/or which are not disclosed pursuant to N.J.A.C. § 13:45A-8.3.

97. Defendants also violate N.J.A.C. § 13:45A-8.11 in that the calling time purchased from Defendants expire 90 days after their last use, but this expiration date is not provided to customers when they open their accounts. In addition, Defendants violate this section in that the 90-day expiration date on accounts is less than the presumptive one-year expiration date set forth in this regulation for accounts without a specific expiration date.

98. Violations of the foregoing regulations are *per se* violations of the Consumer Fraud Act.

99. Plaintiffs and other Class Members have suffered an ascertainable loss as a result of Defendants violations by having to pay the foregoing excessive, undisclosed charges and fees, as well as having to pay excessive rates for making or receiving telephone calls from New Jersey inmates, as described above.

100. Further, unless Defendants are enjoined from continuing to engage in these violations of the CFA, Plaintiffs and the other class members will continue to be injured by Defendant's actions and conduct.

THIRD COUNT
(Violation of New Jersey Public Utilities Statutes)

101. Plaintiffs repeat and incorporate herein by reference each and every allegation in paragraphs 1 through 100, inclusive, as though fully set forth herein.

102. Plaintiffs bring this claim for relief on behalf of themselves and the Members of the Class.

103. Intrastate phone rates within New Jersey are required to be "reasonable" and not discriminatory by N.J.S.A. § 48:3-1 and § 48:3-2, which provides in pertinent part that a company providing telecommunication services cannot:

- a. Make, impose or exact any unjust or unreasonable, unjustly discriminatory or unduly preferential individual or joint rate, commutation rate, mileage and other special rate, toll, fare, charge or schedule for any product or service supplied or rendered by it within this state;
- b. Adopt or impose any unjust or unreasonable classification in the making or as the basis of any individual or joint rate, toll, fare, charge or schedule for any product or service rendered by it within this state.

N.J.S.A. § 48:3-1 or

... adopt, maintain or enforce any regulation, practice or measurement which shall be unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or otherwise in violation of law.

N.J.S.A. § 48:3-2

104. Defendants have engaged in and continue to engage in the unlawful practices alleged herein and have failed and continue to fail to make full and adequate disclosures to their customers concerning these practices.

105. Defendants' customers are charged for unauthorized and inappropriate connection fees, service fees and forfeiture charges among other charges which are unjust, unreasonable, discriminatory and preferential in violation of N.J.S.A. §§ 48-3.1 and 48:3.2.

106. Defendants take steps to conceal their unfair, unreasonable, preferential and discriminatory charges to customer accounts willfully refusing to provide written account statements.

107. Defendants have not filed rates with the New Jersey Board of Public Utilities.

108. As a direct and proximate result of Defendant's violations of New Jersey Public Utility Laws, Plaintiffs and the New Jersey class have been damaged in an amount according to proof at trial.

FOURTH COUNT
(Unjust Enrichment)

109. Plaintiffs repeat and incorporate herein by reference each and every allegation in paragraphs 1 through 108, as though fully set forth herein.

110. Plaintiffs and other Class Members reasonably expect that they would only have to pay market rates for telephone calls placed by New Jersey inmates and would not have to incur other charges which provide no commensurate benefit to them.

111. As is described above, Plaintiffs and other Class Members do not receive what they pay for with respect to the per-minute rates for telephone calls, because those rates are grossly in excess of market rates, nor do they receive what they pay for with respect to the

undisclosed fees and charges in that Plaintiffs and other Class Members receive no benefit whatsoever from those charges.

112. Defendants have been unjustly enriched at the expense of Plaintiffs and other Class Members because Defendants have charged per-minute calling rates grossly in excess of market rates and charged excessive fees and charges that Defendants would not be able to charge but for the fact that they have a monopoly on telephone calls placed from New Jersey detention facilities and are not subject to any competitive pressures of the market.

113. The revenues and profits derived from these excessive charges run into several million dollars per year.

114. Under the circumstances it would be unjust for Defendants to keep such revenues and profits.

115. As a result, Defendants should be required to disgorge and restore to Plaintiffs and the Class all monies wrongfully obtained by Defendant as a result of their extra charges to open and closed accounts, forfeited balances and all other improper charges, together with interest thereon.

116. Wherefore Defendants should be enjoined from these unconscionable, abusive and extortionate billing practices and Defendants should pay over all such unjust enrichment received.

FIFTH COUNT

(Violation of The Federal Communications Act, 47 U.S.C. § 201)

117. Plaintiffs repeat and incorporate herein by reference each and every allegation in paragraphs 1 through 116, inclusive, as though fully set forth herein.

118. Plaintiffs bring this claim for relief on behalf of themselves, the Members of the Class.

119. Defendants are engaged in interstate wireless communications for the purpose of furnishing communication services within the meaning of § 201(a) of the Federal Communications Act (“FCA”), 47 U.S.C. § 201, *et seq.*

120. Defendants’ practices complained of herein constitute unjust and unreasonable charges and practices in connection with communication service and, therefore, violate § 201(b) of the FCA. In addition, Defendants failure to make full and adequate disclosures of these practices to their customers violates CFR § 64.2401 and, therefore, violates §201(b) of the FCA.

121. Defendants have not filed its rates with the Federal Communication Commission.

122. As a direct and proximate result of Defendants’ violations of §201(b) of the FCA, Plaintiffs and the other Class Members have been damaged in amounts according to proof at trial.

SIXTH COUNT
**(Claim Under 42 U.S.C. § 1983 For Taking of Property
Without Just Compensation In Violation of the Fifth Amendment)**

123. Plaintiffs repeat and incorporate herein by reference each and every allegation in paragraphs 1 through 122, inclusive, as though fully set forth herein.

124. As is set forth above, Defendants are in a position to charge the excessive rates for telephone calls and impose unconscionable rates and fees because of their exclusive contracts with the State of New Jersey and various New Jersey Counties.

125. Those contracts set the rates Defendants charge for making telephone calls from the facility or facilities subject to the contract, and further provide that Defendants will pay a percentage of the gross revenue (excluding certain collected taxes and fees) derived by Defendants as a result of the contract which shall be paid to the contracting governmental entity.

126. Those percentages of revenue paid by Defendants to the governmental entities range from 40% in the case of the State of New Jersey to 60.5% in the case of Bergen County.

127. Upon information and belief, the percentage of revenue and per-minute calling rates are agreed to as part of the process whereby the governmental entity contracts with the qualified bidder who will pay the highest revenue to the governmental entity.

128. Defendants act under color of law for purposes of 42 U.S.C. § 1983.

129. At all times pertinent hereto, Defendants have acted with the help of and in concert with state officials in that they were given the exclusive right to provide telephone services for inmates housed in the respective detention facilities.

130. Controlling access to and communications with incarcerated persons is a traditional governmental function.

131. But for the fact that Defendants have exclusive contracts with governmental entities to provide phone services to persons incarcerated within that entity's jurisdiction, Defendants would not be able to charge the excessive per-minute rates and unconscionable fees and charges to Plaintiffs and other Class Members because they would otherwise be able to purchase substitute phone service elsewhere at a significantly lower costs.

132. The entities represented by the aforementioned state officials receive a substantial benefit from the unlawful activities of Defendants when the governmental entities are paid a portion of the revenues generated by the charges imposed by Defendants.

133. The governmental entities' are encouraged by Defendants to turn a blind eye to, Defendants' imposition of unconscionable fees and charges on top of the already unconscionable per-minute charges for telephone calls.

134. Defendants' excessive and unconscionable charges constitute a taking of property from the Plaintiffs without just compensation and is contrary to the Fifth Amendment of the Constitution.

135. Plaintiffs and other Class Members have a property interest in their money.

136. The calling time that Plaintiffs and other Class members receive is not just and adequate compensation for the unconscionably excessive per-minute charges for phone calls imposed by Defendants.

137. In addition, as is set forth above, the other fees and charges imposed by Defendants, such as the 20% set-up fee, the per-call connection fee, the \$5.00 refund charges, inactivity fees and the forfeiture of unused accounts, are likewise a taking of property without just compensation because those charges are grossly in excess of any benefit provided.

138. The State and Counties have delegated authority to the Defendant's sufficient that the Defendants' forfeiture actions and takings of the Plaintiffs' money is an illegal taking by virtue of State action with the meaning of 42 U.S.C. §1983.

139. As a result of the imposition of the foregoing unlawful charges and fees, Plaintiffs and other Class Members have been damaged.

SEVENTH COUNT
**(Declaratory Relief Under The Declaratory
Judgment Act, 28 U.S.C. § 2201, *et seq.*)**

140. Plaintiffs repeat and incorporate herein by reference each and every allegation in paragraphs 1 through 139, inclusive, as though fully set forth herein.

141. Plaintiffs bring this claim for relief on behalf of themselves and other similarly situated prisoners and detainees.

142. An actual controversy has arisen and now exists between Plaintiffs and the other Class Members, on one hand, and Defendants, on the other hand, concerning their respective rights and duties in that Plaintiffs and the other Class Members contend that Defendant has engaged in and are continuing to engage in the unlawful practices alleged herein and have failed and continue to fail to make full and adequate disclosures to their customers concerning these practices, while Defendant apparently will contend that their actions and conduct are lawful and proper.

143. A judicial declaration is necessary and appropriate at this time, under the circumstances presented, in order that Plaintiffs and the other class members may ascertain their rights and duties with respect to Defendant's practices.

WHEREFORE, Plaintiffs pray for judgment as follows:

- (a) For compensatory damages;
- (b) For treble damages in accordance with the New Jersey Consumer Fraud Act;
- (c) For an Order enjoining Defendants from engaging in the practices alleged herein and/or mandating that Defendants make full and adequate disclosures to their customers concerning these practices.
- (d) For disgorgement and restitution to Plaintiffs and the other Members of the Class of all monies wrongfully obtained by Defendants; and
- (e) For prejudgment interest on the monies wrongfully obtained by Defendants from the date of collection through the date of entry of judgment in this action;

(f) For all attorneys' fees, expenses and recoverable costs reasonably incurred in connection with the commencement and prosecution of this action in accordance with the Consumer Fraud Act and 42 U.S.C. § 1988; and

(g) For such other and further relief as the Court deems just and proper.

**CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO PC**
Attorneys for Plaintiffs

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JAMES E. CECCHI

WALDER, HAYDEN & BROGAN, P.A.
Attorneys for Plaintiffs

By: /s/ James A. Plaisted
JAMES A. PLAISTED

Dated: August 20, 2013

JURY TRIAL DEMAND

Plaintiffs request jury trial on all issues so triable.

**CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO PC**
Attorneys for Plaintiffs

By: /s/ James E. Cecchi
JAMES E. CECCHI

WALDER, HAYDEN & BROGAN, P.A.
Attorneys for Plaintiffs

By: /s/ James A. Plaisted
JAMES A. PLAISTED

Dated: August 20, 2013

TABLE D

EXHIBIT I

* TOTAL NUMBER OF BEDS AND EMPTY BEDS as of 12/31/13

FACILITY CLASSIFICATION	FACILITY	TOTAL NUMBER OF BEDS	TOTAL NUMBER OF EMPTY BEDS
MAX	ATTICA	2253	141
MAX	AUBURN	1766	88
MAX	BEDFORD HILLS	926	123
MAX	CLINTON	2898	97
MAX	COXSACKIE	1006	77
MAX	DOWNSTATE	1221	71
MAX	EASTERN	985	14
MAX	ELMIRA	1862	103
MAX	FIVE POINTS	1586	143
MAX	GREAT MEADOW	1689	91
MAX	GREEN HAVEN	2068	81
MAX	SHAWANGUNK	532	17
MAX	SING-SING	1749	103
MAX	SOUTHPORT	945	210
MAX	SULLIVAN	566	99
MAX	UPSTATE	1352	244
MAX	WENDE	961	82
MED	ADIRONDACK	566	9 + (133)
MED	ALBION	1243	121
MED	ALTONA	482	7
MED	BARE HILL	1714	21 + (60)
MED	BUTLER FEEDER ***	240	31 + (144)
MED	CAPE VINCENT	882	19
MED	CAYUGA	1082	77
MED	CHATEAUGAY RPV ***	240	32 + (144)
MED	COLLINS	1107	75
MED	FISHKILL	1840	216 + (28)
MED	FRANKLIN	1730	14 + (60)
MED	GOUVERNEUR	1082	50
MED	GOWANDA	1763	35 + (210)
MED	GREENE	1813	54
MED	GROVELAND	1106	16
MED	HALE CREEK ASACTC	480	181
MED	HUDSON	475	96
MED	LIVINGSTON	874	14
MED	MARCY *	1218	24
MED	MID-STATE	1678	105
MED	MOHAWK **	1417	22
MED	MT. MCGREGOR ***	544	72 + (335)
MED	OGDENSBURG	604	77 + (122)
MED	ORLEANS	1082	103
MED	OTISVILLE	603	10
MED	RIVERVIEW	882	13 + (60)
MED	TACONIC	391	55
MED	ULSTER	882	106
MED	WALLKILL	608	8
MED	WASHINGTON	874	4 + (120)
MED	WATERTOWN	670	47 + (98)
MED	WOODBOURNE	853	24
MED	WYOMING	1714	20 + (60)
MIN	EDGECOMBE	183	60
MIN	LAKEVIEW SICF	1022	181
MIN	LINCOLN	284	139
MIN	MONTEREY SICF ***	300	81 + (180)
MIN	MORIAH SICF	300	37
MIN	QUEENSBORO	424	34
MIN	ROCHESTER	90	37
	WILLARD DTC	865	156

* Marcy RMHU is included in these figures.

** Walsh RMU is included in these figures.

() These represent additional empty beds that are currently unstaffed and consolidated, can be used if necessary with staff assignment.

*** Facilities slated for closure.

FCC Workshop on Inmate Calling Services - Panel 2, Ancillary Charges

EXHIBIT J

SINGLE CALLING PROGRAMS

Description	Fees as High as:
Individual Call Billed to Cell Phone	\$9.99 per Call (Billed as Premium SMS Text Message)
Individual Call Paid via Credit or Debit Card	\$14.99 per Call (Includes \$1.80 for call + transaction fee of \$13.19)

PAYMENT PROCESSING FEES

Payment Method:	Fees as High as:
Credit Card with Customer Service Representative	\$10.95 per Payment*
Credit Card via Vendor Website	\$10.95 per Payment*
Credit Card via Phone IVR	\$9.95 per Payment*
Cash via Lobby Kiosk	\$9.50 per Payment
Western Union®	\$12.45 including vendor mark-up or fee
Money Gram® Wal-Mart	\$10.99 including vendor mark-up or fee*

** These fees have increased since the FCC Order was approved*

ACCOUNT FEES

Description	Fees as High as:
Account Set-up Fee	\$10.99 per month
Account Maintenance Charge	\$5.00 per month
Invoice Charge	\$5.00 per Invoice
Refund Processing Fee	\$10.00 per refund

ACCOUNT ACTIVITY FEES

Description	Government Mandated?	Fees as High as:
Bill Processing, Bill Cost Recovery or Bill Statement Fee	No	\$3.45 per month
Carrier Cost Recovery Fee	No	\$2.50 for 1 st and 5 th Calls each month
State Administration Recovery Fee	No	\$1.95 per month
Federal Regulatory Recovery Fee	No	\$3.49 per month
Validation Surcharge	No	4% per call
Wireless Administration Fee	No	\$3.99 per month
Regulatory Assessment Fee	No	\$.99 for 1 st & 5 th calls each month
Regulatory Cost Recovery Fee	No	\$.95 + 10% per call
Carrier Administrative Cost Recovery Fee (Pre-paid & Debit Calls)	No	8% per call
Universal Service Fund (USF) Administrative Fee	No	\$1.00 per month
Pre-Call Voice Verification	No	\$0.25 per call
Continuous Voice Biometric Identification Fee	No	\$0.50 per call

ICS Vendor Fees More Than Double the Cost of Calls for Families

If a family has budgeted \$100 for calls during a month,
and they make a \$25 payment each week using the vendor's website,
how much money is available for calls?



** The fees shown are based on public information gathered from vendor tariffs, recent proposals and/or company websites.

■ PAYMENT PROCESSING FEES (Per Payment)**

Vendor A	\$10.95
Vendor B	\$6.95
Vendor C (plus Acct Setup Fee of \$10.99)	\$5.50
Vendor D	\$9.95
Vendor E	\$7.95
Vendor F (as high as 39% including taxes)	\$9.75

Average Payment Fees Per Payment.....\$6.75

Average Payment Fees per Month\$35.00

□ ACCOUNT FEES**

Bill Processing Fee	\$3.49/mth
Wireless Administration Fee	up to \$3.99/mth
Validation Surcharge.....	4% per call
Carrier Administrative Cost Recovery Fee.....	8% per call
Regulatory Assessment Fee (1st & 5th call)	\$0.99 each
Regulatory Cost Recovery Fee	\$0.95 + 10% per call

Average Account Fees per Month\$10.00

■ SINGLE CALL PROGRAM WITH CREDIT CARDS

One Call per Month.....\$14.99

■ REVENUE AVAILABLE FOR CALLS ONLY \$40†

THE IMPACT OF FEES ON THE NUMBER OF FAMILY CALLS: ONLY 12 CALLS

Funds available for calls (\$40) ÷ Price per call (\$3.15[†]) = Number of calls: 12

THE IMPACT OF FEES ON THE ACTUAL COST TO FAMILIES: \$8.33 PER CALL

Family funds of \$100 ÷ Number of calls: 12 = Actual cost per call: \$8.33
\$8.33 minus the quoted rate of the call (\$3.15[†]) = Difference paid in fees: \$5.18

†Based on the FCC interim interstate rate for a prepaid 15 minute call



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Verizon Backs Down From Plans To Charge \$2 For Online, Phone Payments

DECEMBER 30, 2011 7:55 AM ET

EYDER PERALTA



MARK MEMMOTT



Eric Thayer/Getty Images

Update at 3:30 p.m. ET. Verizon Backs Down:

Verizon has backed down from plans to charge \$2 for using some methods of payment.

The company made its announcement hours after the FCC said it would investigate the charges and after angry customers took to the web to vent their frustration.

In a statement Verizon said it decided to scrap the new charge "in response to customer feedback."

"At Verizon, we take great care to listen to our customers," Dan Mead, president and chief executive officer of Verizon Wireless, said in a statement. "Based on their input, we believe the best path forward is to encourage customers to take advantage of the best and most efficient options, eliminating the need to institute the fee at this time."

Hours earlier, the company defended its new policy. In an interview with Bloomberg, Brenda Raney, a Verizon spokeswoman, said the company wasn't "considering canceling the charges."

"Customers have a number of alternatives to pay their bill and not incur the convenience fee," Raney told Bloomberg. "Paying the fee is an option, not an absolute."

But, now, Verizon has reversed course, like Bank of America did after customers voiced their displeasure with a new \$5 charge for using a debit card.

Our Original Post Continues:

There's been an "uproar on the Web," as *The New York Times* says this morning, over the plan by Verizon Wireless to charge \$2 for some methods of paying your bill.

Indeed, a simple Twitter search of "Verizon" turns up words such as "backlash," "OUTRAGEOUS," and "Cancel your contract!" And there's the inevitable online petition.

As Eyder reported Thursday, Verizon plans to start charging the fee if you go online or call the company on the phone to make a one-time payment with a credit or debit card. What Verizon is trying to do is steer customers toward signing up to pay their bills via

electronic checks, through automatic payment programs or the old-fashioned way — by dropping a check in the mail.

Forbes contributor Erika Morphy thinks this will be a "Bank of America moment" for Verizon. That is, it will be faced with so much criticism that it will have to reverse course — as Bank of America did when it tried to charge a \$5 monthly fee if its customers used their debit cards to make some purchases.

Verizon calls it a "convenience fee" that "will help allow us to continue to support these single bill payment options in these channels and is designed to address costs incurred by us for only those customers who choose to make single bill payments in alternate payment channels (online, mobile, telephone)."

The company's plan comes as some customers are already upset about recent outages in its 4G network.

verizon online bill fee verizon bank of america

OLDER

Romney, Paul Are 1 And 2 In Another Iowa Poll, Santorum Rising

NEWER

Fireworks, Celebrations As Samoa Skips Friday

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EXHIBIT L

DALLAS COUNTY APPROVES FOR-PROFIT VIDEO VISITATION FOR PRISONERS IN COUNTY JAIL



by BOB PRICE (/COLUMNISTS/BOB-PRICE) 17 Nov 2014 **3**
POST A COMMENT (/BREITBART-TEXAS/2014/11/17/DALLAS-COUNTY-APPROVES-FOR-PROFIT-VIDEO-VISITATION-FOR-PRISONERS-IN-COUNTY-JAIL#COMMENTS)



Dallas County Commissioners' Court approved in a 4-1 vote, a proposal to introduce a for-profit video visitation system for prisoners housed in the county's jails. Family members electing to use the video system instead of an in-person visit will have to pay a fee of \$10 for a 20 minute chat. The program is not mandatory at this time, but there was concern expressed during the Court's debate that the Sheriff could make the system the only option for prisoner's at some point in the future.

Dallas County Judge Clay Jenkins was the only member of the court who voted against the proposal according to (<http://thescoopblog.dallasnews.com/2014/11/commissioners-approve-video-visitation-at-county-jail.html/>) the *Dallas Morning News*. Opponents of the deal, the County and Dallas-based Securus Technologies, expressed concern that this will exploit vulnerable inmates and their families. Dallas County will receive a portion of the \$10 fee in the form of a commission from Securus. The percentage rate for the commission is not known at this time; however, Dallas County currently receives a commission of 60 percent on phone calls made from the jail under a program that is also run by Securus. That commission amounted to \$2.8 million from collect calls made from the jail.

BREITBART VIDEO PICKS



(<http://www.breitbart.com/exclusive/american-heart/>)

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(<http://www.breitbart.com/Breitbart-London/2014/11/18/Delinqpole-Fox-hunting-shouldn-t-be-illegal>)

"I believe this contract is predatory," said Anthony Bond, one of about two dozen people who spoke out against it at Tuesday's meeting. "This is preying on poor people."

"Reducing access to visitation could make Dallas County less safe," said Craig DeRoche, President of [Justice Fellowship](http://www.justicefellowship.org/) (<http://www.justicefellowship.org/>) in a statement to Breitbart Texas. "There is no such thing as 'charging prisoners' as a practical matter. The cost will really be paid by family, friends, clergy and other guests who are trying to help the prisoner turn from a life of crime. It is therefore simply a tax. A tax that makes Dallas County employee's jobs easier but makes the community less safe."

County Judge Jenkins agreed with the opposition and attempted to persuade County Commissioners to stop the deal. Jenkins said he was worried that the Sheriff's Department would, at a later date, unilaterally decide to make the video visitations mandatory and end in-person visits. Dallas County Sheriff Lupe Valdez said she has no such plans.

"My sense is that video visitation is a positive if it is in addition to the ability to visit in person at reasonable times," said Marc Levin, Director of the Center for Effective Justice at the Texas Public Policy Foundation in response to an inquire from Breitbart Texas. Levin also serves as [Right on Crime's](http://www.rightoncrime.com/about/) (<http://www.rightoncrime.com/about/>) Policy Director.

Jenkins expressed opposition to the County sharing in the revenues of both the phone calls and the video visitation program. He was overruled by the vote of the commissioners.

"This is not being done to make the public safer but for the convenience of the jailers," said Patrick J. Nolan, Director of the Criminal Justice Reform Project at the [American Conservative Union Foundation](http://www.conservative.org/foundation) (<http://www.conservative.org/foundation>) in a statement to Breitbart Texas. "The priority should be on what makes better families and therefore increases the likelihood of the inmate being a good neighbor, not making life easier on the jailers. The idea that the inmates would then be charged for the visits makes it doubly bad."

During one of the longest debates on any issue this year, embattled County Commissioner John Wiley Price said Judge Jenkins was using "misinformation" in his fight against the contract.

Referring to Judge Jenkins argument that the optional provision might be temporary, Commissioner Theresa Daniel expressed her frustration by saying, "Everyone at this table has made a commitment to ensure the fact that the continuation of in-person visitation is a top priority. I take it as a little bit of an insult that you will not [trust] that commitment."

After the vote, Jenkins expressed that he was disappointed in the decisions made by the Court but he was pleased that the in-person visitations would continue. "This is not as bad as it could be," he said. "Had the community not stepped in and held the elected officials accountable, it could have been worse."

The system is expected to be operational early next year.

Other county jails across the country have implemented the video visitation system offered by Securus. In Shawnee County, Topeka, Kansas, the video visitation program is mandatory according to an article by Aly Van Dyke on the Topeka Capital-Journal. Jail officials tout the benefits to families, inmates and jailers that come from expanded visitation hours, 24-hour guaranteed advance scheduling and the ease of access from any computer with video and audio capabilities including computers provided for public use.

Others warn about the consequences of using the video system. While the video system warns people on both ends that the video conversation will be recorded and can be used against them, often times friends and family do not heed the warning or forget about the recording. That can have serious legal consequences for people on both ends of the conversation.

Shawnee County Commissioner Kevin Cook, who is also a defense lawyer, said this can be a real headache. He said defendants' faces have gone pale when he has played back tapes of their conversations and explained the legal impact of what happened on tape. He said the legal problems can extend to the person on the other end of the conversation as well. He explained that law enforcement can track the IP address of the computer the other party is using and determine the physical address where the computer is located. If there is illegal activity going on in the background or the person is wanted by police, law enforcement officials will know where to find you and have video evidence to back it up.

[It-should-be-compulsory](#)

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"This is a defense attorney's nightmare," Cook said. "You're inviting law enforcement into your home."

Sarah Rumpf contributed to this article. Follow her on Twitter @rumpfshaker.

Bob Price is a senior political news contributor for Breitbart Texas and a member of the original Breitbart Texas team. Follow him on Twitter @BobPriceBBTX (<https://www.twitter.com/BobPriceBBTX>).

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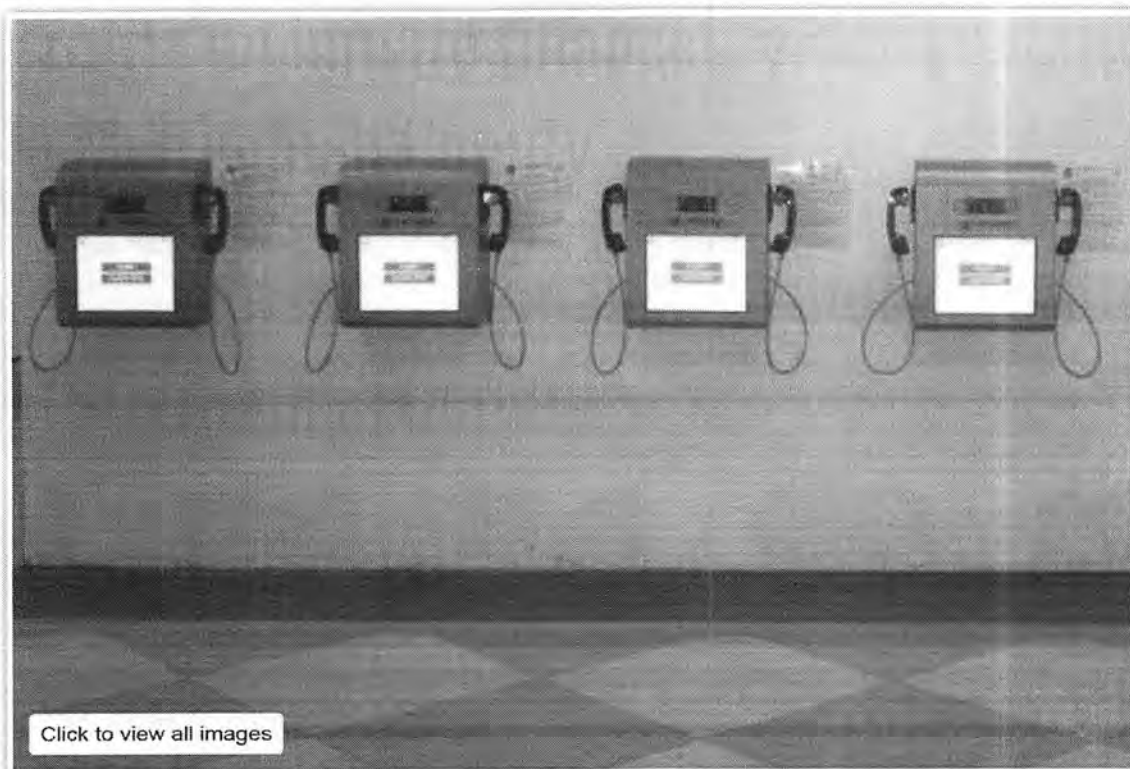
street roots news

FOR THOSE WHO CANNOT AFFORD **FREE SPEECH**

A publication of StreetRoots.org

Captive consumers: Corporations reap big profits on inmate finances, video visitations in Multnomah County

by Emily Green | 6 Jan 2015



Four video visiting boxes hang on the wall in the lobby of Multnomah County Detention Center in downtown Portland. These boxes are currently being used to communicate with inmates at the Inverness Jail, as installation at MCDC has not been completed. These boxes will take the place of all non-professional in-person visits by the end of 2015.

Photo by Emily Green

There's big money to be made in our jails and prisons. Just ask Securus Technologies, Inc.

In 2013, the Multnomah County Sheriff's Office (MCSO) signed a four-year contract with the Texas-based prison-industry giant, allowing it and two other out-of-state corporations to begin profiting off Multnomah County inmates and their families — charging for services the county historically provided free of charge.

Under the terms of the contract, one of the three corporations is profiting every time a deposit is made onto a Multnomah County inmate's account, another profits from fees charged to inmates who are issued a debit card upon their release, and the third profits from its video visiting system. The contract requires the county to eventually eliminate in-person visiting and promote video visiting instead.

With the exception of attorney and other professional visits, all in-person visiting will be eliminated in Multnomah County correctional facilities by the end of this year, according to a MCSO spokesperson Lt. Steven Alexander. That's if the planned installation of the video visiting systems is completed on time. After the switch is made, family and friends of MCSO inmates will only be able to visit their locked-up loved ones by communicating through a box with an attached phone for audio and a small video screen for visual. Prior to the video setup, visits in MCSO jails were done with the inmate and visitor only a few feet from each other, on a phone, with a piece of shatterproof glass between them.

Unless you're using the visitation kiosks in the jail, charges will apply.

Securus is only one of many companies profiting by charging families of prisoners money for services now outsourced from the correctional system. Today, Securus serves 2,600 facilities in 46 states. It boasts that it has paid \$1.3 billion in commissions to correctional facilities over the past 10 years. In 2009, the last year financial information was made publicly available, Securus brought in more than \$363 million in revenue.

Video "visits"

Video visiting has "really taken off over the past three years," says **Prison Policy Initiative** spokesperson Bernadette Rabuy. Her organization has been studying the prevalence and effects of video visiting across the country, and she says it's more common than she previously thought, with upwards of 500 facilities using the service. Visits can be conducted on site, usually from the lobby of a correctional facility, or remotely, which can benefit inmates whose families live far away, which is often the case with state facilities. But, says Rabuy, "In the county jail context, it's been really harmful."

According to the Dallas Morning News, Dallas County, Texas, turned down a similar deal with Securus last year on the grounds that the "elimination of in-person visits was inhumane."

Rabuy says Securus is the only company offering video visiting that requires the elimination of in-person visits in all of its contracts. While the technology for video visiting has existed since the 1990s, Rabuy says most systems, including Securus's, still experience many glitches, with frozen screens, audio delays and poor picture quality. In testing, Rabuy says she experienced 10-second audio delays that made communication during the video visit virtually impossible.

Rabuy says her organization has found it's difficult for family members to determine the well being of an inmate through the small screen, something that's very important to them. They can't tell if the inmate has lost or gained weight or see changes in their skin tone. Prison Policy Initiative's study on video visiting will be released later this month.

Street Roots asked Multnomah County Sheriff Dan Staton if he thought the switch to video visiting at MCSO facilities would make visiting less personal than it was with face-to-face visits. In an e-mail response, his office didn't answer the question, but stated, "We are not the first ones to implement video visiting in Oregon or the nation. Frankly, we are behind the curve on this one and are the last large jail in Oregon to move to video visiting. Before, a person wishing to visit an inmate in MCSO custody had to travel down to the jail facility the inmate was housed at on a Saturday or Sunday, the scheduled visiting days for each facility."

The new system has its advantages, says Alexander, pointing out that now people can visit inmates, remotely, any day of the week and on holidays. Last month, for the very first time, inmates were able to receive "visits" on Christmas Day. He says in-person visitation will most likely be entirely eliminated by the end of January at Multnomah County Inverness Jail, and by the end of the year at Multnomah County Detention Center in downtown Portland.

Becky Straus, legislative director with the the **ACLU in Oregon**, says on just face value, they don't have problems with the video visitation.

"Anything that can make it easier for inmates to be in touch with loved ones is a good thing," Straus said. "Burdensome fees on accessing video chat, however, make visitation harder rather than easier, putting an additional fiscal burden on inmates and their families. In no circumstances should video chat be the only option for visitation. Eliminating in-person visits altogether is likely to make inmates feel more isolated and could lead to a greater chance of recidivism."

Between last May, when video visiting was introduced, and mid December, 211 out of a total of 2,169 video visits were conducted remotely for \$5 each. The rest were conducted on-site and free of charge at a MCSO facility.

The county receives a 20 percent commission from each remote, paid video visit, but right now the commissions are going toward paying off the \$600,559 installation of Securus's systems. If remote, paid visits don't reach an average total of 1,265 per month, a number based on the county's average daily population, then Securus has the expressed right to renegotiate payments. It also has the right to raise the \$5 "promotional" cost of a remote visit up to as much as \$20 per 20-minute session, but county spokesperson Alexander says he doubts it will ever raise rates that high. On-site video visits conducted at MCSO facilities will always be free, he says.

Fees for services

Under the contract with Securus Technologies, MCSO also implemented a debit card system run by Numi Financial. Since the debit card's implementation last spring, the jail no longer returns personal cash to people released from jail. Instead, a person would receive a debit card loaded with the money when they are released. They have five days to get their money off the card before it begins to incur a monthly maintenance fee of \$5.95. Fees also apply to non-preferred ATM withdrawals, balance inquiries and paper statements. The cards are given to everyone who was carrying cash when they were arrested, regardless of their length of stay at a MCSO facility.

Also based in Texas, TouchPay GenPar, LLC. was subcontracted through Securus to operate new kiosks in Multnomah County Correctional facility lobbies, enabling TouchPay to collect a fee every time someone puts money into an inmate's account. Alexander says the county plans to also use this system for posting bail.

The fees range from \$4 to \$8, depending on the amount and method of the deposit. If paying with a credit or debit card, 3.5 percent of the face value of the deposit is also tacked on to the total cost. Street Roots asked Multnomah County how much TouchPay has collected from deposits made to accounts within its corrections system, but the county does not keep record of that data, and TouchPay didn't respond to our inquiry by press time.

According to advocacy groups, excessive fees charged by for-profit prison-industry companies put an additional financial burden on inmates and their families, many of whom are living in poverty.

"These companies, like Securus, have figured out a way to monetize both human contact and the only way a prisoner's family can help them out," says Carrie Wilkinson, Phone Justice Director at **Human Rights Defense Center**. Her organization has been pushing for legislation that would regulate the fees charged by

the prison communications industry.

Financial burdens

Portland resident Leslie McCarthy has a son serving time at Two Rivers Correctional Institution in Umatilla, Ore. The fee charged by Access Corrections, the company contracted to handle inmate accounts at Two Rivers, jumps from \$2.95 to \$5.95 if she deposits \$20 or more. For this reason she deposits \$19.99 on his books each month so she can avoid the higher fee. She says she feels as though putting money on his account is a necessity. "You do way better in prison if you have money," she says. Without money, her son wouldn't be able to brush his teeth with toothpaste or wash his hair with shampoo, she says.

Multnomah County's decision to have a corporation take over the management of inmate monetary funds came after a 2011 county audit found the way the department handled cash was needlessly cumbersome, with staffers recounting the same bundles of cash multiple times. In light of the audit's recommendations, the county decided to do what many other correctional facilities across the country and the state have already been doing for some time – hand the responsibility over to an outside, for-profit agency. The move was projected to save the sheriff's office, with a budget of \$122.3 million in the last fiscal year, about \$23,000 annually.

Before the TouchPay kiosks were installed, visitors could put money on MCSO inmates' accounts without paying a fee. The county does not receive any portion of the profits garnered by TouchPay from account deposits.

Street Roots asked Sheriff Staton how he would respond to someone who might say it's unfair to pass these costs onto inmates' friends and family, many of whom are experiencing poverty. In a written response, his office instead talked options: "The Sheriff's Office has historically absorbed all of the costs associated with handling cash deposits and processing those deposits... When we moved to this new system it provided better security controls and accounting to comply with the County Auditor's recommendations, but we also looked to provide a solution that allowed more flexibility for someone to make a deposit on an inmate's account. With this new solution, there are now several ways to make a deposit to an inmate's account without even having to travel down to one of the jails. A family member or loved one can make a deposit over the Internet, or even call a 1-800-number to make a deposit over the phone."

These increased options, says the Sheriff's office, save time and cost of travelling down to a jail. But all of them also cost the family member or loved one between \$4 and \$8 per transaction. Other transactions, such as money orders and cashiers checks, are no longer accepted at the county per Securus' request in the contract.

"As a mom, you want to do everything you can to stay in contact with your child," says Tamra Craig, who works in Portland as a caregiver. Her son is currently serving time at the federal correctional facility in Sheridan, Ore. She often puts money on her son's prison account so he can buy phone and e-mail minutes and commissary items. She says she can barely afford the price of his incarceration. "The financial burden is more than I can express," she says. "Sometimes I forgo things at the grocery store."

According to Wilkinson at the Human Rights Defense Center, hiring companies like Securus is not how a government agency would traditionally fund its operations. "If the school district is running short of money, the school district doesn't go to the parents of all the kids and say, 'You have to pay \$50 each because we're running short of money,'" she says. "And in effect, that's what's happening. The only people that are providing this money are the prisoners' families, and in most cases they're poor and least able to provide this money."

Jimmie Stewart, whose son Jason Angelo is in Mill Creek Correctional Facility in Salem, says the financial burden of her son's incarceration is "very difficult." Her son's wife, a student, and his two young boys are living

with Stewart and her husband in a two-bedroom apartment in Portland while her son serves his time.

Stewart and her family absorb costs associated with putting money on her son's books. Mill Creek employs JPay for account deposits, which, like TouchPay, charges a sliding scale of fees for its services. It costs \$3.95 to send a deposit of \$20 or less. This may not seem like a lot, but for someone with little means, it's a hefty fee. Angelo's wife has resorted to giving blood in order to put money on her husband's account. Stewart says she's been trying to sort out a mistake made by JPay in November. She says she tried to send \$100 to her son, and while JPay accepted the payment, the prison says it never received it. She says JPay has acknowledged the mistake, but by press time, JPay had neither returned her money nor forwarded it to Mill Creek.

National studies show the majority of prisoners have at least one child under the age of 18. For some families, keeping the line of communication open between parent and child is important, even when doing so isn't affordable.

Stewart pays what her son's wife can't toward phone charges in order to make sure her son doesn't lose contact with his sons.

"These are important times," she says. "His oldest son is in preschool, so he tells daddy everything he's done in school that day, and the 2-year-old is just starting to talk, so now he can tell daddy his new words," she says.

They've done video visiting a few times, but at \$9 per visit, she says it's too expensive.

Stewart's son works four days a week on a work crew at the prison, which pays him about \$40 a month, says Stewart – less than half of what she pays in phone charges most months.

Costly contact

Before the Multnomah County Sheriff signed the deal with Securus Technologies, the prison communications leader had already been pulling in millions of dollars from Multnomah County inmates and their families for years with high fees on collect calls. Under the 2013 contract with the county, Securus, along with its subcontractors, has expanded its revenue potential with the addition of inmate financial transactions and visitations. Local departments benefit with commissions.

In Multnomah County, Securus charges \$5.43 for a 15-minute local call. The commissions made by the county from phone calls go into the Inmate Welfare Fund, which was set up to pay for activities and services that benefit inmates. But over the past two fiscal years, \$92,521 was taken out of the Inmate Welfare Fund to pay for other things on the county's agenda, such as an Eastside Streetcar assessment. The Inmate Welfare Fund was one of only a handful of funds diverted as part of a supplemental budget both years.

The phone charges on inmate families caught the attention of Federal Communications Commission.

Last year the Human Rights Defense Center and other advocacy groups that were pushing for prison phone industry regulation celebrated a victory when the FCC capped costs on interstate calls made from correctional facilities. Now, impending regulations from the FCC might also cap rates for local collect calls as well, which account for 85 percent of all calls made from county jails. The public comment period for the upcoming FCC decision ends Jan. 5, and a decision is expected by mid year.

After looking at data from 14 U.S. correctional facilities, the FCC estimates that in 2013, more than \$460 million was paid to correctional facilities in commissions off of phone charges alone. "This means that (inmates) and their families, friends and lawyers spent over \$460 million to pay for programs ranging from inmate welfare to roads to correctional facilities' staff salaries to the state or county's general budget," the

FCC stated in a notice of the proposed cap.

According to MSCO's 2015 adopted budget, it's been collecting about \$400,000 a year from Securus in phone commissions over the past two years, but according to a MSCO spokesperson, that phone revenue has decreased since the FCC put caps on interstate collect calls.

The bulk of Securus's revenue comes from phone charges. If the FCC decides to cap fees for local calls as well, Securus and other prison communications companies might have to rely more heavily on other products and services for making money from their captive consumers.

Some consumers — at least those footing the bills — have fired back.

The Better Business Bureau lowered Securus's rating due to the number of complaints filed against it — 443 in the past three years. According to the BBB's Dallas and Northeast Texas website, where Securus is based, most complaints allege Securus "fails to provide acceptable product quality for its prison call services," and that it "fails to provide refunds in a timely manner." Last September the BBB contacted Securus, requesting that it eliminate the underlying reason for a pattern of consumer complaints, but it has yet to receive a written response to its request for voluntary compliance.

Securus boasted record growth in 2013, and in a press release its president and CEO Richard Smith stated, "Our expanded product set of inmate phone calling, on-site and remote video visitation, data analytics, parolee GPS monitoring, jail management (IT Systems), location based wireless tracking services, interactive voice recognition systems — and 650 other products will allow us to grow and serve our customers well into the foreseeable future."

Mothers of Incarcerated Sons Society

The three mothers of inmates Street Roots spoke with for this story are members of the national nonprofit **Mothers of Incarcerated Sons Society Inc.** Rhonda Robinson founded the group out of her Michigan home in 1992 after her own son went to prison. It has since grown to be an online support group with 1,800 members nationwide and 31 members in Oregon. MISS is open to anyone who has a loved one serving time in a correctional institution.

"Members are constantly posting discussions regarding their financial burdens with high phone rates," says Robinson. Her website hosts online discussions on different topics and serves as a source of support to people dealing with the pain of having an incarcerated family member. Many Members of the group are also actively advocating for changes to the prison system, tackling issues like mandatory minimum sentencing laws, solitary confinement and air conditioning in prisons.

In 2013 MISS held its first national conference in San Diego, and it plans to hold its second this year in Michigan.

To learn more, visit: mothersofinmates.org

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Tags: Multnomah County Sheriff's Office, Multnomah County Jail, Securus Technologies, inmates, prisoners' rights, video visiting, Prison Policy Initiative, Bernadette Rabuy, Dallas County, Multnomah County Sheriff Daniel Staton, Becky Straus, ACLU of Oregon, Numi Financial, TouchPay GenPar LLC, Carrie Wilkinson, Human Rights Defense Center, Leslie McCarthy, Two Rivers Correctional Institution, Tamra Craig, Jimmie Stewart, Jason Angelo, Mill Creek Correctional Facility, Federal Communications Commission, FCC, collect calls, Emily Green