

APPENDIX A

Confronting Confinement

A Report of
**THE COMMISSION ON SAFETY AND ABUSE
IN AMERICA'S PRISONS**

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6 Support community and family bonds. Reexamine where prisons are located and where prisoners are assigned, encourage visitation, and implement phone call reform.

Strong connections to family and community give hope to people in prison—that elusive element that a correctional facility alone cannot provide but can, if it is not vigilant, destroy. And hope, it turns out, is critical to avoiding violence. The storehouse of self-respect and pride that a person finds in family and community can ward off the shame and humiliation that lead one to violence while incarcerated (Gilligan 1996). For prisoners who are parents, incarceration means being physically removed from children; for them it is critical that we make every effort to maintain family ties. And as former prisoner A. Sage Smith explained, visits from community volunteers “inject a sense of purpose into many prisoners’ consciousness” and “bring a sense of concern and infuse a sense of hope” that can assist a prisoner’s positive transformation. These relationships with people outside the correctional facility also smooth the process of reentry and make it more likely that prisoners will succeed after release.

The Commission was told about various ways to support community and family bonds. We address three strategies here, although many others should also be considered. First, unlike local jails, prisons are filled with people who have been sent far from home, and in some cases transported to other states. The physical distance to the facility can make it nearly impossible for family to visit regularly and impractical to connect prisoners with groups based in their home communities. Recognizing the importance of family and community bonds, many state systems move prisoners to facilities closer to their home communities in the final months before release. But these bonds are important not only as part of the reentry process but as an important ingredient for a safe environment during incarceration.

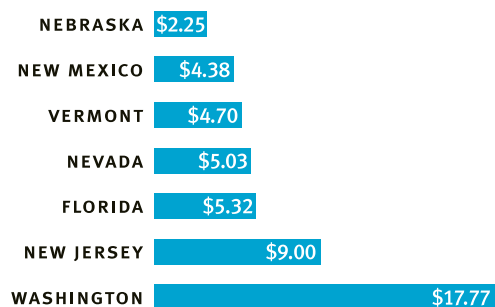
Decisions about where to send prisoners, combined with the siting of many prisons far from the prisoners’ home communities, disproportionately affect African-American and Latino families and exacerbate the racial divide between prisoners and officers. According to one study, those decisions result in rural prisons, which have a greater concentration of white staff, holding higher percentages of African-American men than correctional facilities in urban areas (Farrigan and Glasmeier 2002). There is widespread agreement that for incarceration to be productive, support must be given to preserving a prisoner’s bonds with his or her family and community.

There are many reasons states build prisons in rural locations far from the urban centers from which most prisoners come: lower-cost land, a more favorable political environment, and the perception of a larger employment pool. These factors—reasonable in theory, sometimes debatable in practice—must be considered against the weakening of prisoners’ ties with family and community. While a shift in priorities would require tremendous political will, lawmakers should at least examine the impact of decisions about where to locate prisons. In the meantime, corrections administrators should look closely at their internal process for assigning

The Cost of Keeping in Touch

When people are incarcerated far from home, phone calls with partners, children, and parents are often the only practical way for these families to stay in touch. **Calling rates vary considerably from state to state.** Where collect calling is the only option and the rates are high, poor families make large sacrifices to speak with an incarcerated loved one.

Average cost of a 15-minute in-state long-distance collect call placed from a correctional facility



State correctional facilities that enter into exclusive contracts with telephone companies typically reap **30 to 40 percent** of all revenue generated—enormous sums that state legislatures have come to depend on.

Florida's Inmate Welfare Trust Fund took in **\$15.3 million** in fiscal year 2000.

Nevada collected **\$20.5 million** in 1999.

SOURCES: CALLING RATES PROVIDED BY CITIZENS UNITED FOR THE REHABILITATION OF ERRANTS (CURE); INFORMATION ABOUT COMMISSIONS PROVIDED BY THE AMERICAN BAR ASSOCIATION AND BY ALAN ELSNER IN HIS BOOK *GATES OF INJUSTICE*.

people to facilities and make decisions whenever possible that preserve family bonds. And no system should send their prisoners to other states.

Second, both prisons and jails must do a better job of welcoming visitors, providing ample space and time, and even assisting with transportation. There are costs involved to do this well, but these dollars would be well spent. And in many places the most needed investment is in a change of attitude. Visitors are often sent the erroneous and harmful message that they are not welcome in a facility and that they do not play an important role in supporting prisoners and the well-being of the facility. There are valid security concerns that require restrictions on visitation. Nonetheless, author *asha bandele* described to the Commission the humiliating and capricious treatment she received when visiting her incarcerated husband. She explained the consequences: “[Poor] treatment of family members has the potential to make the facility less secure because it can lead to severe tensions between a prisoner and a guard who humiliated or otherwise violated his wife.”

Another way to encourage visitation is by allowing the greatest degree possible of closeness and privacy, given security imperatives. Because contact visits can inspire good behavior, people confined in both prisons and jails should be allowed to touch and embrace their children, partners, and other friends and family. Physical barriers and telephones should be reserved for those who have abused visitation privileges or otherwise have been determined to pose too great a risk. The Commission was told that people detained in the Washington, D.C., jails prefer to be held in the privately run facility rather than the public jail because, despite some of its disadvantages, it allows contact visits with family.

The final way correctional systems, principally prisons, might support family and community bonds is by minimizing the cost of prisoners’ telephone calls. At present, most state systems allow only collect calls from prisoners (typically no direct calls out or incoming calls are allowed) and do so through contracts with providers that charge the recipient extraordinarily high rates, with the state receiving a commission. For example, in Florida, where only collect calls are allowed, a prisoner’s 15-minute in-state long-distance call from prison costs \$5.32. Calling someone out of state costs \$17.30. The state earned over \$15 million in commissions on prisoners’ calls in 2000 (Citizens United for the Rehabilitation of Errants, Florida Corrections Commission).

A growing group of corrections leaders recognizes the critical importance of telephone communication for prisoners and their families. The American Correctional Association has taken the position that prisoners “should have access to a range of reasonably priced telecommunications services” with rates “commensurate with those charged to the general public” (ACA 2001). But many directors of state departments of corrections have been pressured by shortsighted legislatures to use telephone contracts to seek income for state general funds or corrections budgets rather than to ensure family unification. The result is that family members

of prisoners pay many times more than anyone else for the opportunity to speak with a loved one.

There has been considerable effort to convince lawmakers that, regardless of the income from telephone charges, interference with family unification is too high a price to pay. The American Bar Association recently adopted a recommendation urging “the lowest possible rates,” among other measures to ensure ready telephone contact (ABA 2005). Some states are responding. Vermont requires phone contracts to offer prisoners the option of direct or collect calling at “the lowest reasonable cost” (Vt. Stat. Ann. tit. 28 §802a). New Mexico’s statute bars its prisons and jails from receiving commissions on the amount billed and requires “the lowest cost of service” (N.M. Stat. Ann. §33-14-1). The District of Columbia bars correctional facilities from charging higher than local Public Service Commission rates and also bars surcharges on prisoner calls (D.C. Code Ann. §24-263.01).

Meanwhile, practices in some states more drastically interfere with prisoners’ ability to maintain family and community bonds through phone contact. In Texas, for example, the very ability to make calls is severely restricted: “Offenders who demonstrate good behavior can earn one five-minute call every 90 days” (Texas Department of Criminal Justice 2006). State legislatures and correctional systems must end practices such as these that interfere with the maintenance of critically important family and community ties. ■

Strong connections to family and community give hope to people in prison. And hope, it turns out, is critical to avoiding violence.

PREVENT VIOLENCE: RECOMMENDATIONS RECAP

- 1. Reduce crowding.** States and localities must commit to eliminating the crowded conditions that exist in many of the country’s prisons and jails and work with corrections administrators to set and meet reasonable limits on the number of prisoners that facilities can safely house.
- 2. Promote productivity and rehabilitation.** Invest in programs that are proven to reduce violence and to change behavior over the long term.
- 3. Use objective classification and direct supervision.** Incorporate violence prevention in every facility’s fundamental classification and supervision procedures.
- 4. Use force, non-lethal weaponry, and restraints only as a last resort.** Dramatically reduce the use of non-lethal weapons, restraints, and physical force by using non-forceful responses whenever possible, restricting the use of weaponry to qualified staff, and eliminating the use of restraints except when necessary to prevent serious injury to self or others.
- 5. Employ surveillance technology.** Make good use of recording surveillance cameras to monitor the correctional environment.
- 6. Support community and family bonds.** Reexamine where prisons are located and where prisoners are assigned, encourage visitation, and implement phone call reform.

APPENDIX B

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

In the Matter of

**Implementation of the Pay Telephone
Reclassification and Compensation
Provisions of the Telecommunications
Act of 1996**

**Petition for Rulemaking or, in the
Alternative, Petition to Address Referral
Issues In Pending Rulemaking**

CC Docket No. 96-128

DA 03-4027

**DECLARATION OF DOUGLAS A. DAWSON IN SUPPORT OF PETITIONERS'
ALTERNATIVE PROPOSAL**

Douglas A. Dawson, being duly sworn, declares as follows:

I. INTRODUCTION

1. My name is Douglas A. Dawson, and I am the President of CCG Consulting LLC (“CCG”), located at 7712 Stanmore Drive, Beltsville, Maryland, 20705. CCG is a general telephone consulting firm. CCG works for over 350 communications companies, which include local exchange carriers (“LECs”), competitive LECs, cable TV providers, electric utilities, wireless providers, paging companies, municipalities and other governments and interexchange carriers (“IXCs”).

2. I submit this Declaration in support of petitioners’ alternative proposal to have the Federal Communications Commission (“Commission” or “FCC”) address certain issues involving prison inmate calling services referred to the Commission by the United States District Court for the District of Columbia in *Wright, et al. v. Corrections Corporation of America, et al.* (“*Wright*”).¹ I have specific experience and expertise relevant to the issues in

¹ CA No. 00-293 (GK) (D.D.C.).

this proceeding, which involves the provisioning of long distance calling for prison inmates. I have assisted in the launch of over 50 long distance companies in my career. In that role, I have done virtually everything associated with creating or running long distance companies, gaining substantial expertise in the long distance business. I am also familiar with all regulatory aspects of long distance, including the development of rates and costs and, prior to detariffing, the preparation and filing of tariffs.

3. I have helped numerous companies select hardware for long distance service, and I know the capabilities and technical specifications of such hardware. I have negotiated numerous wholesale long distance service agreements between facilities-based IXC's such as Sprint, Frontier, Qwest and WorldCom (now MCI), and resale carriers, and I understand the underlying long distance networks and issues associated with using them. I have had extensive experience with, and, consequently, have an in-depth understanding of, the capabilities and configurations of the network switching systems that lie at the heart of all telephone systems. I also have helped numerous companies with the provisioning of ancillary long distance products such as calling cards, operator services, pre-paid cards, international toll and Internet telephony. Most recently, my company has assisted clients in purchasing and installing Voice over Internet Protocol ("VoIP") long distance service. My CV, including testimony in prior cases, is attached as Exhibit 1.

II. PURPOSE OF THIS TESTIMONY

4. In this Declaration, I have been asked to examine the rates charged for interstate long distance calling in prison systems. Because the *Wright* case focuses on inmate calling at prisons operated by the Corrections Corporation of America ("CCA") during a period when inmate calling services were provided at those facilities by Evercom Systems, Inc. ("Evercom"), AT&T, MCI and other service providers, I will use data relating to the service provider defendants in the *Wright* case, as well as other inmate service providers, to illustrate the points I

am making. The inmate calling services provided by the *Wright* defendants are typical, with regard to the rates and the methods used to bill long distance calls by prisoners, of most prison inmate calling services. The issue of inmate service pricing is a generic question, and the conclusions drawn in this analysis would apply to all prison calling systems, public and private. CCA and other prison administrators and the service providers control inmate calling on a monopoly basis and have permitted only a limited set of very expensive options for making long distance calls.

5. For the reasons set forth in this Declaration and based on my extensive background in the telecommunications field, I conclude that the rates charged for interstate calling in these and other prisons are excessive. First, most calls are billed as collect calls when in fact the calls are fully automated and do not require an operator. As such, the rates for such calls are set at historic operator-assisted rates and are far in excess of the costs of such calls. Other calls from prisons are made as debit calls but are still billed at rates far above their costs and above comparable rates for other debit calling services and comparable products. Finally, service providers are required to pay prison administrators hefty commissions based on calling volumes that add tremendous mark-ups to inmate calling rates.

6. In brief, in this Declaration, I will: a) demonstrate that collect calls today are very different from collect calls that historically used live operators; b) compare the prices that inmate service providers charge for prison calling to the actual cost of such calls; and c) compare the prices that inmate service providers charge to comparable commercial service rates.

III. RATE ISSUES

7. This section will begin with a discussion of how collect calling rates have been set historically. Next I will examine the rates charged in prisons today. Most inmate calling rates have not decreased over time as the costs for providing long distance have decreased. I will demonstrate that most prison rates are set far in excess of cost. Finally, I will compare the rates

typically charged in prisons to some lower priced inmate telephone services and analogous commercial long distance rates.

Historic Rates for Collect Calls

8. Rates for collect calls have historically been higher than rates for automated calls to account for the difference in the way the calls were processed. Collect calls, until several years ago, always required the intervention of a live operator. I touched on the processing of collect calls in my initial Affidavit in this matter, which is attached, without exhibits, hereto.² Such live operators would be housed in stand-alone operator call centers and required expensive terminals to process the calls. Thus, the price of operator-handled calls reflected the cost of the operator's wages plus the cost of the operator centers and the hardware needed to handle such calls. In addition, a large number of collect calls are never completed because the called party either does not answer or refuses to pay for the call. The cost of the labor for uncompleted calls had to be recovered in the price of the completed calls. Different types of operator calls were historically priced using standard work seconds, meaning that a standard rate per second was applied to different types of operator calls depending on how long each type of call lasted, on average. For example, if the average collect call required two minutes of live operator assistance, it would be priced at twice the rate of another operator call type that required only one minute of operator time.

9. Historically, the price for operator-handled calls was strictly regulated. AT&T, GTE and the Bell System companies provided the vast majority of all operator-handled calls. Regulators at both the federal and the state level would routinely look at the underlying costs of

² Affidavit of Douglas A. Dawson, *Martha Wright, et al.; Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in Pending Rulemaking*, CC Docket No. 96-128 (Oct. 29, 2003) ("Dawson Aff."), attached hereto as Exhibit 2.

making operator-assisted calls for these companies and make certain that the rates reflected the underlying costs.

10. However, it has been many years since operator and collect call rates have been cost-based and cost justified. In general, both the FCC and the states have stopped looking at the cost of long distance calling due to the significant decreases in rates charged to customers brought about by competition. In the following paragraphs, I will look at some of the industry trends that have contributed to lower long distance rates. Collect calling has seen some of the largest decreases in costs since the era when regulators required cost-based long distance rates, largely because the costly elements of that system have been almost totally replaced by computers. Those cost declines, however, have not been matched by rate declines. In the prison systems discussed in my initial Affidavit, there were no live operators involved in completing collect calls (and there are fewer and fewer live operators doing this anywhere in the country). Expensive people have been replaced by computerized systems that have almost no incremental cost for processing an operator call. This Commission is no doubt well aware that there is no connection between the cost of a modern collect call and the price charged for these calls.

11. Collect calls are still priced at a high rate simply because people without cell phones or calling cards are willing to use such services at those rates, especially given that the called party pays for the call. In prisons, however, the callers do not have other options. They are not allowed to use cell phones or calling cards. Instead, they are faced with a monopoly provider insisting that they use collect calling, or, in some cases, debit calling. There is a huge difference between callers who voluntarily elect to use collect calling and prisoners who are given no options.

The Decline in All Telecommunications Costs

12. The cost of providing long distance in general has dropped steadily over the last few decades. The cost required to process a collect call has dropped dramatically over the last

decade for a number of reasons. As noted above, live operators are no longer required to complete collect calls (or many of the other types of calls that were formerly handled by operators, such as calling card calls). Operators have not been totally eliminated, but the vast majority of collect calls are now fully automated. Large commercial automated collect calling products have been introduced into the marketplace, with the best known one perhaps being the “1-800 COLLECT” product that is constantly touted in advertisements on television. This commercial product does not use live operators and instead records the name of a caller and then queries the called party, using voice recognition software, to determine if the called party will accept the collect call. The way that this product functions is very similar to how prison systems process collect calls today – everything is done with computers, and it is a well known axiom that computer time is far cheaper than human labor time. The use of an automated operator has resulted in a drastic reduction in the cost of completing a collect call simply by removing the live operator and the infrastructure required to support the live operator from the process.

13. Other factors have also contributed to lower costs for providing long distance, and these cost reductions have been reflected in the long distance marketplace in the form of lower long distance rates. Without creating an exhaustive list, some of the more important trends that have contributed to lower long distance rates include: reduction in transport costs as transport technologies have improved; drastic reductions in switching costs as the cost of switching hardware and software has plummeted in recent years; reduction of access charges over the years; and a reduction in the regulation and thus the regulatory costs of providing long distance. Perhaps the most significant trend in the long distance market was the introduction and the flourishing of competition. The competitive marketplace has functioned as the Commission had hoped and resulted in significantly lowered long distance rates for consumers.

14. All of these various factors have lowered the cost of providing long distance service. These cost reductions, which have steadily gained momentum over time, have directly

led to ever lower prices for long distance calling for the general public. However, none of the reductions in costs have resulted in lower prison inmate calling rates. The prison long distance providers have benefited from the drop in industry-wide costs, as has every long distance provider; yet there has been no reduction in the rates charged for prison calling.

15. The steady drop in costs has resulted in a drop in rates for general commercial long distance products, over time. A typical residential interstate call that would have cost more than 20 cents per minute 15 years ago is now routinely available for as little as 5 cents per minute. As another example, calling card calls were priced at around 30 cents a call for many years through AT&T and the other major carriers. Again, these prices reflected the use of old technology and the lack of serious competition and deregulation. Today, one cannot read an airline magazine without seeing ads for calling cards offered at 6 or 7 cents per minute.

Inmate Service Rates

16. The long distance rates in CCA and other prisons – privately administered and public – have not reflected the same sorts of price reductions seen everywhere else in the industry. As discussed in my initial Affidavit, the marketplace has not been allowed to operate in the prison inmate service market because the chosen service provider enjoys an effective monopoly in any given prison. In addition to allowing the provider to collect high rates for calling, the prison systems have layered on gigantic commissions, typically based on calling volumes, constituting more than 30 percent of the inmate calling service revenue. As monopolists, neither the service provider nor the prison administrator has any motivation to lower calling rates.

17. All of the prison facilities I have reviewed offer collect calling. In addition, as discussed in my initial Affidavit, some prisons offer debit calling. I will examine the inmate service rates for both collect calling and for debit calling. The rates charged for interstate collect calls in the prisons I have reviewed have two components. The first component is a flat rate,

per-call charge that mimics the traditional set-up charges that have been billed for operator-handled calls. These flat rate charges are derived from the operator surcharges that operator service providers have historically charged to recover the fixed cost of the operator labor and systems used by the live operators. The second rate component for each long distance call is a per-minute charge. Debit calls typically are charged only a per-minute rate.

18. As discussed in my previous Affidavit, Evercom's tariffed interstate inmate service rates just prior to detariffing in 2000 were \$0.59 per minute plus a \$3.95 per-call charge for collect calling and \$0.65 per minute for debit card calls.³ Evercom's and other inmate service providers' rates apparently have not declined since then. Evercom is now a wholly-owned subsidiary of Securus Technologies,⁴ and it no longer posts its rates, but as recently as August, 2005, Evercom's website showed a per minute rate of \$0.89 and a service charge of \$3.95 for its interstate inmate service.⁵ SBC's website shows an interstate inmate collect calling rate of \$0.85 per minute plus a \$3.95 service charge per call.⁶

³ During the period from September 14, 1999, to the detariffing of Evercom's rates on June 27, 2000, Evercom's standard tariffed debit card service rate, which applied to its Inmate-only Debit Account Service, was \$0.65 per minute. *See* Evercom Systems, Inc. Tariff FCC No. 1, Section 3.4.1 (effective Sept. 14, 1999), and its standard tariffed rate for interstate, interexchange operator assisted inmate calls, including collect calls, was \$0.59 per minute plus a \$3.95 service charge. *See* Evercom Systems, Inc. Tariff FCC No. 1, Section 3.5 (effective Sept. 14, 1999), and FCC Public Notice, Tariff Transmittal Public Reference Log (June 28, 2000). The relevant portions of Evercom's Tariff No. 1 and cancellation notice are attached as Exhibit 3 hereto.

⁴ *See* Securus Technologies Home Page, www.securus.net (follow "About Securus" hyperlink) (last visited Aug. 1, 2006).

⁵ Evercom Systems, Inc. Federal Rate Schedule, www.evercom.net/faqs/FCC.pdf (last visited Aug. 29, 2005) (no longer available). *See* Exhibit 4.

⁶ *See, e.g.,* SBC, Alternate Billed Services in Ohio, http://www05.sbc.com/Products_Services/Residential/ProdInfo_1/1,,864--12-3-0,00.html (last visited Aug. 1, 2006); SBC, Alternate Billed Services in Oklahoma, www01.sbc.com/Products_Services/Residential/ProdInfo_1/1,1191,294--5-3-2,00.html (last visited Aug. 1, 2006).

19. Although service contracts are generally not public, inmate service providers' rates also can be derived from telephone bills of the families and others accepting collect calls from prisoners and prisoners' commissary bills for debit calls, which have been provided to counsel for the petitioners in this proceeding.⁷ For example, the telephone bills attached as Exhibit 5 show Evercom charges for inmate collect calls from a prison facility in Burlington, Colorado in May 2002 and February and March 2003. Based on the total charges shown for calls of different duration, Evercom charged \$3.00 per call plus \$0.45 per minute for those calls.⁸ By October 2003, Evercom's rates for collect calls from the same facility had risen even higher. Exhibit 6 shows a charge of \$17.30 for each of several 15 minute calls from October 2003 to January 2004, which had cost \$9.75 in March 2003, more than a 77 percent increase.⁹ The \$17.30 charge for a 15 minute call is consistent with the rates previously shown on Evercom's website of \$0.89 per minute plus a \$3.95 service charge.¹⁰

⁷ Identifying information has been deleted from the attached copies of the bills.

⁸ These rates can be derived by solving two simultaneous equations using the data for two calls of different duration. For example, Exhibit 5 shows that a 15 minute call on May 1, 2002 cost \$9.75, and a one minute call on the same day cost \$3.45. Where x is the per-minute rate and y is the per-call rate,

$$\begin{aligned} 15x + y &= 9.75 \text{ and} \\ x + y &= 3.45. \end{aligned}$$

$$\begin{aligned} \text{Thus, } y &= 9.75 - 15x, \text{ and } y = 3.45 - x. \\ 9.75 - 15x &= 3.45 - x. \\ 6.30 &= 14x. \\ \$0.45 &= x, \text{ and } y = 3.45 - .45, \text{ or } \$3.00. \end{aligned}$$

The same rates were charged in February and March 2003, when six 15 minute calls each cost \$9.75, according to Exhibit 5.

⁹ Compare Exhibit 6 with Exhibit 5.

¹⁰ Applying the formula used in n. 8, *supra*, $(\$0.89 \times 15) + \$3.95 = \$17.30$.

20. Similarly, Exhibit 7 shows AT&T charges for inmate collect calls from a facility in Oklahoma from May through July, 2003. Applying the methodology used to derive Evercom's inmate rates, AT&T's charges in Exhibit 7 reflect a per-call rate of \$3.95 and a usage rate of \$0.89 per minute.¹¹ Exhibit 8 shows a portion of a prisoner's commissary bill for early 2003 at a Colorado prison facility served by Evercom containing two debit account calls. Applying the same methodology to derive the rates, Evercom charged \$1.80 per call and \$0.45 per minute for those calls.¹²

21. These rates are exceedingly high when judged by contemporary standards. Another way to judge how high these rates are is to look at the size of the long distance bills these calls generate for the families of prisoners. For example, if a prisoner were to call collect for only one hour per week (four calls of 15 minutes duration) from the Burlington facility served by Evercom, the total collect charges for a single month would be over \$275. If a prisoner were to call collect for one hour per week (two calls of 30 minutes duration) from the Oklahoma facility served by AT&T, the total collect charges for a month would be over \$245, or more than one dollar per minute. That is a gigantic phone bill for such a small amount of calling. Although the debit account rates are lower, they are still excessive compared to standard services. Four 15-minute debit calls per week for one month would total \$136.80 under the debit account rates charged in early 2003 at the Colorado facility discussed above. At Evercom's previously tariffed debit account rate of \$0.65 per minute, the same amount of calling for one month would total \$156.

¹¹ Exhibit 7 shows several 30 minute calls, each costing \$30.65. Thirty minutes times \$0.89 per minute, plus \$3.95, equals \$30.65.

¹² For example, Exhibit 8 shows a 20 minute-plus call costing \$11.25. Rounding up to 21 minutes times \$0.45 per minute, plus \$1.80, equals \$11.25.

22. These rates are clearly excessive, by any measure. The “collect” surcharge billed by service providers is no longer justified. Notwithstanding the “operator service,” “operator assist” and “Operator Assisted” designations on the tariffs and bills attached in Exhibits 3, 6-7, these calls are not truly operator assisted calls. Nevertheless, the service providers have maintained the collect calling rates and pricing mechanism that were developed decades ago when there were live operators for all prison inmate calls. With a mechanized collect call, there is no longer any justification for the large set-up charge levied for each call. Although there are automated commercial collect calling products for the general public that also still charge for the call set-up, there is one huge difference between commercial automated collect systems and the prison collect system -- the use of commercial collect products is optional for the caller. A caller in the outside world has a number of alternatives to the use of a collect product. The general public uses calling cards, pre-paid cards or cell phones, and most callers only rely on collect calling in the rare instance when there is no immediately available convenient alternative. They are paying a premium for the convenience of long distance service without any prior contract. The prisoners and their families never have an alternative to the inmate service providers’ monopoly systems.

23. In determining what rates would be reasonable for prison calling, one test of reasonableness is to look at the cost of providing calling. I examined cost issues in my initial Affidavit. The first issue that must be examined in any review of inmate service rates is the commissions that service providers pay to public and private prison administrators based on their traffic volumes. As the FCC has held, commissions do not constitute a legitimate cost of providing service; rather, they are an element of profit.¹³ Because they inflate service providers’ rates, however, they must be recognized and “backed out” in any attempt to derive a reasonable inmate service rate. As discussed in my initial Affidavit, inmate service providers estimate that

¹³ Dawson Aff. at ¶ 67 (attached as Exhibit 2 hereto).

commissions typically amount to about 30 percent of their total inmate calling service costs, including all profit.¹⁴ In other words, commissions add an average of 43 percent (*i.e.*, 30%/70%) to all other costs before commissions.

24. Subtracting the cost of commissions from the illustrative inmate service rates discussed above should yield the amounts that service providers actually collect. Assuming a 15-minute long distance call at the Evercom rates in effect from October 2003 to January 2004 at the Burlington, Colorado facility, the charge would be \$17.30. Assuming a 15-minute call at the AT&T rates in effect from May through July 2003 at the Oklahoma facility discussed above, the total charge would be the same.¹⁵ Assuming a 15-minute debit account call at the Evercom rates in effect in early 2003 at the Colorado facility discussed above, the total charge would be \$8.55. Subtracting the average commission rate of 30 percent from these revenue figures yields the following net revenue:

15-Minute Collect Call - \$17.30

Average Rate per Minute	\$1.15
Commission Rate	30 %
Commission per Minute	\$0.35
Per Minute to Service Provider	\$0.80

15-Minute Debit Account Call - \$8.55

Average Rate per Minute	\$0.57
Commission Rate	30 %
Commission per Minute	\$0.17
Per Minute to Service Provider	\$0.40

Thus, service providers retain an extremely high rate per minute after paying commissions.

¹⁴ *Id.*

¹⁵ The per-minute rate of \$0.89 times 15 plus the per-call charge of \$3.95 equals \$17.30.

Inmate Calling Costs

25. The first test of reasonableness for these rates is the cost to the providers to complete the calls. I analyzed the operating costs of completing inmate calls in my initial Affidavit. There, I calculated a range of costs for prison calling and also cited costs that were provided in other Commission filings by the Inmate Calling Service Providers Coalition (“Coalition”). I cited data from the Coalition showing that the cost of providing an inmate local collect call was \$0.126 per minute.¹⁶ I then made the appropriate adjustments necessary to derive the cost of an inmate long distance collect call by substituting the cost of transport and termination of a long distance call for the local service charge, but accepting all of the Coalition’s other costs. The cost of an inmate long distance collect call derived in that manner was \$0.133 per minute.¹⁷

26. It should be noted that this cost estimate included a cost of \$0.027 per minute for wholesale long distance transport and termination. Today, I typically can procure wholesale transport and terminating service for around \$0.0125 per minute. Accepting all of the Coalition’s other costs, while substituting today’s lower long distance transport and termination cost, the estimated cost of providing inmate long distance collect calling declines from \$0.133 to \$0.121 per minute. Within that cost of a collect call is roughly 6 cents of costs for billing and uncollectible revenues that do not apply to debit calls.¹⁸ Thus, using the Coalition’s own cost figures, the cost of making a debit call ought to cost the inmate providers roughly \$0.06 per minute (\$0.121 total cost less the cost of billing and uncollectibles).

¹⁶ See Dawson Aff. ¶ 72 (attached as Exhibit 2 hereto).

¹⁷ *Id.*

¹⁸ *Id.* ¶ 74.

27. There is clearly a huge difference between the rates the inmate service providers are charging and their costs. The margins retained by these providers are excessive. Every long distance provider strives to make a reasonable profit, and they also strive to find minutes that are highly profitable. However, the monopoly environment in these prisons allows the providers to collect rates that are vastly in excess of costs. Following is a comparison of the amount collected by providers compared to the underlying costs. The higher end of the range of estimated costs, as provided by the prison telephone providers themselves, is used in this chart in order to provide the most conservative possible comparison in favor of the prison providers.

Collect Calls

Revenue Kept by Provider	\$0.80
Reasonable Direct Cost	<u>\$0.12</u>
Profit Margin per Minute	\$0.68
Profit as a Percentage of Revenue	85%

Debit Calls

Revenue kept by Provider	\$0.40
Reasonable Direct Cost	<u>\$0.06</u>
Profit Margin per Minute	\$0.34
Profit as a Percentage of Revenue	85%

28. These profit margins are clearly excessive. Only a monopolist could expect a long distance product with 85 percent margins, after all costs. Most long distance products today generate margins of only a couple of cents per minute, at best. In a competitive market, these prison services would earn a profit of only a couple of pennies per minute. It also should be kept in mind that there is an additional large portion of revenue paid to administrators in the form of commissions, which also should be treated as profit, rather than an element of costs.¹⁹

¹⁹ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, 17 FCC Rcd 3248, 3255 (2002) (“*Inmate Payphone Order and NPRM*”). See also *id.* at 3259-60.

Comparable Debit Calling Rates: Other Inmate Service Rates

29. Another way to analyze the reasonableness of these rates is to look at comparable long distance rates. The most directly analogous rate is the rate charged for debit calling in the federal prison system and other relatively low inmate debit calling rates. In a truly competitive market, all inmate service providers would have to match these lower inmate debit calling rates. There are also commercial long distance products that can be compared to inmate long distance debit calling.

30. The debit account rate applicable to the Inmate Telephone System (“ITS”) managed by the Federal Bureau of Prisons (“FBOP”) is only \$0.23 per minute, and only \$0.17 per minute of that amount is attributable to telephone service costs. Effective March 1, 2002, the ITS debit calling rate was \$0.17 per minute.²⁰ Effective March 1, 2003, the rate was raised to \$0.20 per minute “[i]n order to maintain the financial integrity of the inmate Trust Fund Program.”²¹ According to a FBOP memorandum, “[a]ll of the funds generated from the ITS rate increases will go to the inmate Trust Fund to support Trust Fund Programs.”²² Similarly, on July 2, 2004, the ITS debit account rate was raised to \$0.23 per minute “to ensure that adequate financial resources are available for the inmate Trust Fund Program given rising program costs.”²³ Thus, for comparative purposes, the ITS debit account long distance rate is still \$0.17

²⁰ U.S. Department of Justice, Federal Bureau of Prisons, Memorandum For All Institution Controllers, All Trust Fund Supervisors, from Michael A. Atwood, Chief, Trust Fund Branch, Trust Fund Message Number: 18-02 (Feb. 8, 2002) at 2, attached hereto as Exhibit 9.

²¹ U.S. Department of Justice, Federal Bureau of Prisons, Memorandum For All Regional Directors regarding ITS Rate Increase Talking Points, from Robert J. Newport for Bruce K. Sasser, Assistant Director for Administration, attachment, Telephone Minutes and Rate Increases (Sept. 27, 2002), attached hereto as Exhibit 10.

²² *Id.*

²³ U.S. Department of Justice, Federal Bureau of Prisons, Memorandum For Inmate Population, from W. Kern, Trust Fund Supervisor, (July 2, 2004), attached hereto as Exhibit 11.

per minute. For economic analytical purposes, the additional cost of six cents per minute can be treated as a commission.

31. Because the debit account rate applicable to federal prison inmates necessarily reflects security functions and the use of equipment similar to the security functions and equipment required at other prison facilities, as well as all of the other costs, including an acceptable profit, of providing inmate service, and because inmate service providers like AT&T, MCI, Evercom and T-NETIX are able to take advantage of the economies of scale generated by customer bases of hundreds or thousands of correctional facilities, the federal debit account rate should be taken into account in deriving an appropriate benchmark rate for inmate debit account and debit card rates generally. Another example is the interstate debit inmate calling rate at Colorado Department of Corrections (“CDOC”) facilities of \$0.19 per minute, with a \$1.25 per call surcharge, for a total blended per minute cost of just over \$0.25 for a 20-minute call. The commission rate paid by Value Added Communications, Inc. (“VAC”) to the CDOC is 43 percent,²⁴ leaving VAC with net revenue of less than \$0.18 per minute. Similarly, the contract for inmate long distance calling services between the Indiana Department of Administration and T-NETIX provides for prepaid long distance calls at a rate of \$0.25 per minute with no per-call charge and a commission rate of 35 percent,²⁵ leaving T-NETIX with net per minute revenue of slightly over \$0.185 per minute. The Nebraska Department of Corrections inmate telephone service contract with AT&T sets the interstate debit calling rate at \$0.16 per minute plus a \$0.60

²⁴ See Contract between State of Colorado and Value Added Communications, Inc. for Inmate Telephone Services at 6 (Sept. 18, 2006). Relevant portions of the contract are attached hereto as Exhibit 12.

²⁵ Contract for Services Between T-NETIX, Inc. and Indiana Department of Administration, Division of Information Technology at 5, App. 6 (Aug. 17, 2001); Amendment # 1 (Aug. 17, 2005); letter from Arthur E. Heckel, Vice President - Sales, T-NETIX, Inc., to Shelley Harris, Indiana Department of Administration (April 9, 2001). Relevant portions of the contract and the letter are attached as Exhibit 13.

service charge, with no commission payments.²⁶ These charges are equivalent to a total blended charge of \$0.20 per minute for a 15-minute call, with no per-call charge.

32. Even stronger support is provided by an inmate service contract covering Vermont correctional facilities providing an interstate inmate debit rate of \$0.14 per minute plus a connection charge of \$0.75, which is equivalent to a total blended rate of slightly under \$0.18 per minute for a 20-minute call. After backing out the 31.6 percent commission rate paid to the state,²⁷ the service provider is left with net blended revenue of less than \$0.135 per minute. Maryland reduced interstate inmate debit rates in Maryland Department of Public Safety and Correctional Services facilities to \$0.30 per minute, with no per-call charge, and awarded the inmate service contract to T-NETIX (now a wholly-owned subsidiary of Securus Technologies).²⁸ This rate includes a huge 60 percent commission rate.²⁹ After backing out the 60 percent commission, the revenue to T-NETIX is \$0.12 per minute for long distance debit calling. Finally, the Missouri Office of Administration entered into an Offender Telephone Service (“OTS”) contract with Public Communications Services, Inc. providing interstate inmate debit and pre-paid calling services for \$0.10 per minute, with no per-call charge and no

²⁶ State of Nebraska, Service Contract Award to AT&T to provide Inmate Calling Systems, Contract Number SCA-0254 (Nov. 27, 2002), AT&T’s Response to Request for Proposal, SCA-0254 at 51, 86 (Nov. 11, 2002). Relevant portions of the contract are attached hereto as Exhibit 14.

²⁷ Contract between State of Vermont, Department of Corrections, and Public Communication Services for Inmate Services, Contract No. 10314, at Att. B, I (eff. Oct. 1, 2006). Relevant portions of the contract are attached hereto as Exhibit 15.

²⁸ See Securus Technologies Home Page, www.securus.net (follow “About Securus” hyperlink) (last visited Aug. 1, 2006).

²⁹ Maryland Department of Budget and Management Action Agenda, Information Technology Contract, Item 3-IT, at 24B, 25 B (Dec. 17, 2003), attached hereto as Exhibit 16.

commission payments.³⁰ The service providers would not have accepted these contracts if these net rates did not cover costs and a reasonable profit, leaving the total cost of long distance inmate debit calling at less than \$0.14 per minute.

33. In looking at these existing inmate debit service rates, a rate within a range of \$0.15 to \$0.20 per minute, with no per-call charge, would be a generously reasonable estimate of a rate that would be established in a competitive market. These FBOP and state contracts are of a sufficient scope and scale to provide a reasonably comparable sample by which to determine the inmate service rates that would be charged in a competitive market. It is not necessary or appropriate to look at higher inmate service rates than these examples because, in the absence of competition, even the lowest rates in comparable situations must be presumed to be significantly profitable. Service providers would have no incentive to agree to exclusive service arrangements at rates that were not profitable. These examples are sufficiently numerous and wide-ranging to conclude that they accurately represent the total cost of long distance inmate debit calling service plus a reasonable profit. Accordingly, the cost of providing long distance inmate debit calling service is somewhat less than these rates, adjusted for the cost of commissions. Because these federal and state inmate service rates provide a reasonably comparable sample of long distance inmate debit services, and the cost of providing such services, higher inmate rates at other facilities reflect only higher profits, not higher costs.

Comparable Debit Calling Rates: Commercial Rates

34. Various commercial products also provide an additional reasonableness check for inmate debit rates. From the perspective of functionality, the commercial product that is most similar to the prison debit call is the commercial prepaid calling card. These two types of

³⁰ State of Missouri Office of Administration, Notice of Award, Offender Telephone Service, Contract No. C205070001, Public Communications Services, Inc. (May 19, 2006), Best And Final Offer #002 at 8-10. Relevant portions of the contract are attached hereto as Exhibit 17.

services both use the same nationwide network to complete the call; a verification process using a personal identification number is used before placing the call to the final destination; and calls are processed to bill against a pre-established account. The big cost difference between commercial calling card calls and the prison debit call is the extra cost of installing the prison telephone system with all of its security and other penological features. Thus, a comparable rate for prison debit calling would be the price for commercial pre-paid calling cards plus the added cost of the prison telephone system, expressed on a usage basis.

35. Prepaid, debit and calling card rates charged by other carriers for comparable services are far below typical inmate debit calling rates. For example, as long ago as March of 2000, when long distance rates were higher than they are now, an AT&T prepaid card plan was offered for \$0.849 for the first minute and \$0.059 for each additional minute, or less than \$0.14 per minute for a ten minute call.³¹ Also starting in March of 2000, an MCI prepaid card option was offered for \$0.03 per minute plus a \$0.70 per-call surcharge, or \$0.10 per minute for a ten minute call.³² Later that year, another prepaid card option was offered for \$0.029 per minute plus a \$0.50 per-call surcharge, or \$0.079 per minute for a ten minute call,³³ and one of MCI's calling card options was offered for a rate of \$0.15 per minute with no per-call charge and a monthly charge of \$1.00.³⁴

³¹ See AT&T Communications Tariff FCC No. 27, Sections 9.1.1.F.9, 9.1.1.J and 24.1.6.C.9(a) (effective Mar. 15, 2000), attached hereto as Exhibit 18.

³² See MCI WorldCom Communications, Inc. Tariff FCC No. 1, Section C.3.2623311 (effective March 8, 2000), attached hereto as Exhibit 19.

³³ See MCI WorldCom Communications, Inc. Tariff FCC No. 1, Section C.3.26231011 (effective Nov. 10, 2000), attached hereto as Exhibit 20.

³⁴ See MCI WorldCom Communications, Inc. Tariff FCC No. 1, Section C.3.21112 (effective Nov. 1, 2000), attached hereto as Exhibit 21.

36. Current prepaid, debit and calling card rates are even lower. There is a wide range of prepaid calling products available. The calling card from AT&T is probably the most easily recognized brand name product. If one gets a prepaid calling card today directly from AT&T, the rate for interstate calling within the U.S. (excluding Alaska and Hawaii) is \$0.05 per minute, with a 1-minute minimum billing period but no other monthly or per-call charges.³⁵ The same AT&T cards are available from “Sam’s Club” (Wal-Mart) for \$0.0347 per minute.³⁶ There are many vendors of calling cards today with rates quoted as low as 2 cents per minute. However, most of the cards with rates at that level have other requirements, such as 3-minute minimum billing periods, that equate to effectively higher rates than the published rate. For purposes of this analysis, the AT&T \$0.05 rate may conservatively be used as representative of current calling card rates. It must be assumed that the carriers offering those rates to consumers are doing so profitably and that a large volume carrier like an inmate service provider could be profitable at that rate or even a lower rate.

37. The next step in deriving an estimate of the cost of inmate debit calling from these commercial retail debit product rates is to add the cost of the prison telephone system. In my initial Affidavit, I estimated the total cost of installing an entire prison telephone system, expressed on a usage basis, to be between \$0.044 and \$0.059 per minute.³⁷ Because that estimate includes all of the costs generated by penological requirements, it can be added to commercial debit product rates to derive a total inmate debit calling cost. In the three years since

³⁵ See “SpeedyPin” Promo AT&T Prepaid Phone Cards, <http://speedypin.com/phone/card/promo-att-prepaid.html?&aff=698> (last visited July 7, 2006).

³⁶ See Sam’s Club: AT&T® 800-Minute Phone Card for \$27.76; AT&T® 1200-Minute Phone Card for \$41.64; AT&T® 1500-Minute Prepaid Phone Card for \$52.04, <http://www.samsclub.com/shopping/navigate.do?dest=0> (search “AT&T”) (last visited July 6, 2006).

³⁷ Dawson Aff. ¶¶ 50-71 (attached hereto as Exhibit 2).

the preparation of my initial Affidavit, telecommunications system component costs have declined even further. As I predicted, soft switches have reduced switching costs by splitting switching functions into separate components, thereby allowing signaling and penological control functions to be provided to many facilities from a central location.³⁸ Thus, nationwide inmate calling service providers such as MCI, AT&T and Evercom can serve hundreds or thousands of prison facilities from a single switching platform with a central feature server and signaling gateway, leaving only call processing to be provided at each facility. Centralizing switching components that used to be provided at each facility permits additional cost reductions, which may account for some of the decline in rates reflected in the state inmate calling contracts discussed above and makes my previous cost estimate of a prison telephone system of \$0.044 to \$0.059 per minute an absolute ceiling and probably too high.

38. Alternatively, I demonstrated in my previous Reply Declaration in this proceeding, the relevant portion of which is also attached hereto, without exhibits,³⁹ that MCI's inmate calling cost analysis, adjusted to correct overstated cost elements, could be shown to support an estimate of \$0.066 per minute for the cost of installing a prison telephone system.⁴⁰ Thus, the cost of installing a prison telephone system is no more than six cents (based on my cost analysis) to seven cents (based on my adjustments to MCI's cost analysis) per minute. Accepting the estimate of seven cents per minute derived from MCI's adjusted data, an inmate debit rate that would be comparable to a commercial calling card rate today would be \$0.12 per

³⁸ *Id.* ¶ 55.

³⁹ Reply Declaration of Douglas A. Dawson ¶¶ 28-33, *Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in Pending Rulemaking*, CC Docket No. 96-128 (Apr. 21, 2004) ("Dawson Reply Decl."), relevant portions of which are attached hereto as Exhibit 22.

⁴⁰ *Id.* The adjusted MCI estimate of the cost of inmate debit calling -- \$0.086 per minute -- included a \$0.02 per minute long distance termination cost, leaving a cost of \$0.066 per minute for the underlying prison system. *See id.* ¶ 33.

minute (the \$0.05 AT&T calling card rate plus \$0.07 for the prison telephone system). This rate is even less than most of the comparable inmate debit rates discussed above, which strengthens the conclusion that the inmate debit card rate, absent any commissions paid to the prisons, should be no more than \$0.15 to \$0.20 per minute, including profit, and probably less. From the previous analysis of the monies currently collected by service providers, it is clear that they are keeping as much as \$0.40 per minute from each debit call -- a tremendous excess profit.⁴¹

The Cost Difference Between Inmate Collect and Inmate Debit Calling Services

39. With regard to the issue of the reasonable rate for inmate long distance collect calls, it must be remembered that the prison calling product is “collect” only in the sense that the charges are ultimately paid for by the families and friends of the prisoners. These calls are not operator assisted, unlike the historical collect calls performed by live operators, and inmate collect calling rates should not be compared with historical collect calling rates.

40. In the typical prison system, the only difference between a debit call and a collect call is who pays for the call. With limited exceptions, discussed below, the underlying cost of providing the call and the system used to complete a call is the same for both types of calls. Accordingly, the most direct way to derive a reasonable rate for inmate collect calls is to begin with the inmate debit calling rate. The inmate collect rate should be equal to the inmate debit rate plus the additional costs of those processes that are required to provide a collect service – billing costs paid to the Bell company or other local telephone company serving the called party

⁴¹ The *Inmate Payphone Order and NPRM* notes that a coalition of inmate telephone service providers provided data purporting to show that a 12-minute inmate call costs approximately \$1.30 more than a typical 12-minute non-inmate call. *Inmate Payphone Order and NPRM*, 17 FCC Rcd at 3254. That cost difference comes to only about \$0.11 per minute, and not all of the cost differences are attributed to additional security costs. Even accepting the full difference of \$0.11 per minute, adding that amount to a \$0.05 per minute commercial debit rate yields a total inmate debit calling cost of \$0.16 per minute, which is less than the FBOP debit rate and well within the estimated comparable rate range of \$0.15 to \$0.20 per minute.

and uncollectible revenue resulting from nonpayment of bills. Using the highest estimate available for these costs submitted by the Coalition, billing costs are \$0.029 per minute, and uncollectibles are \$0.034 per minute,⁴² for a total additional cost of \$0.063 per minute.

41. That figure would overestimate the additional costs of collect calling, however, because the \$0.034 per minute component for uncollectible revenues is derived from a much higher assumed billed rate per minute - \$0.82 per minute.⁴³ If prison calling rates were reduced, the amounts of revenue that would be uncollectible would decline. Lower rates equate to smaller bills to families, lowering the amount of revenue to be collected. Also, with lower bills, families could afford to pay the collect call bills. That the derived uncollectible figure of \$0.034 per minute is unrealistically high can be demonstrated by combining the entire potential additional cost of \$0.063 per minute -- which includes the \$0.034 per minute uncollectible figure -- with the high end of the estimated debit calling rate range -- \$0.20 per minute -- to estimate the maximum total collect calling rate, which would come to \$0.263 per minute. If the collect calling billed rate were actually reduced to that level, however, the estimated derived cost of uncollectibles would be reduced accordingly, as discussed above. This would suggest that a reasonable rate for long distance inmate collect calling, using a more realistic uncollectibles adjustment, would be no higher than \$0.05 per minute more than debit calling, or \$0.20 to \$0.25 per minute, with no per-call charge.

42. The conservative nature of a \$0.20 to \$0.25 per minute long distance inmate collect calling rate is demonstrated by the rate charged for inmate collect calling services at New York Department of Correctional Services ("NYDCS") facilities by MCI. NYDCS prisoners pay a \$3.00 connect fee per call plus a per-minute rate of \$0.16 for all calls. Thus, for an 18-plus

⁴² Dawson Aff. ¶ 72 (attached hereto as Exhibit 2). The \$0.029 figure overstates the cost of billing, given that the Coalition included both billing and validation within that estimate. *Id.*

⁴³ *See id.* ¶ 62.

minute call, which is the average for NYDCS prisoner calls, the overall rate is slightly under \$0.32 per minute. MCI pays a 57.5 percent commission in New York.⁴⁴ Accordingly, the effective rate collected by MCI, net of commissions, is about \$0.135 per minute. Similarly, the recent Missouri OTS contract discussed above provides interstate inmate collect calling for only \$0.10 per minute with a \$1.00 set-up charge, which comes to an effective rate of \$0.15 per minute on a 20-minute collect call.⁴⁵ Prisoners in New Hampshire correctional facilities, which are limited to collect calling, pay a \$1.45 connect fee per call plus \$0.20 per minute for interstate long distance calls. Netting out the 18 percent commission paid to the state, the service provider receives just over \$0.23 per minute on a 20-minute collect call.⁴⁶ These directly comparable

⁴⁴ See New York State Department of Correctional Services Comments in Opposition to Petition for Rulemaking Filed Regarding Issues Related to Inmate Calling Services, Exh. A at 45, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128 (Mar. 9, 2004). An 18 minute-plus call is rounded up to the next whole minute in applying these rates. *Id.* Pursuant to an order of Governor Eliot Spitzer, the state will no longer collect its commission after April 1, 2007, which will greatly reduce inmate service rates in NYDCS facilities. See *N.Y. Governor Orders Cuts In Cost of Inmate Collect Calls*, Telecommunications Reports, Feb. 1, 2007.

⁴⁵ See Missouri OTS contract, Best And Final Offer #002 at 9, attached as Exhibit 17.

⁴⁶ See Inmate Calling and Public Pay Telephone Services Contract between New Hampshire Department of Administrative Services and Public Communications Services, Inc. at 15, 22 (Aug. 23, 2000) (“NH Inmate Service Contract”), and Second Amendment to Inmate Calling and Public Pay Telephone Services (Aug. 13, 2003), which are attached hereto as Exhibit 23. One facility is covered by a different contract, under which the rates and terms are the same as the NH Inmate Service Contract, except that the connect fee is \$1.50. See Inmate Calling Services, Northern Correctional Facility, Berlin, NH Contract between New Hampshire Department of Administrative Services and Public Communications Services, Inc. at Exh. A, §15.32, Exh. B, §1.1 (Dec. 15, 1999) (“Northern Correctional Contract”), and Third Amendment to Inmate Calling Services (Aug. 13, 2003), which are attached hereto as Exhibit 24. Under the Northern Correctional Contract, the service provider nets \$0.233 per minute on a 20-minute call after commissions. Both contracts have been extended through August 22, 2007. See New Hampshire Governor and Executive Council Minutes, Sept. 13, 2006, Department of Administrative Services items 19 and 20, <http://www.nh.gov/council/> (follow “Current Agenda” hyperlink; then search “Minutes” for September 13, 2006) (last visited Oct. 4, 2006).

inmate collect calling rates support the conclusion that the additional costs of collect calling are not significant and that a benchmark long distance inmate collect calling rate in the range of \$0.20 to \$0.25 per minute, with no per-call charge, is a reasonable maximum and may well be too high.

43. In calculating reasonable inmate long distance calling rates of \$0.15 to \$0.20 per minute for debit calling and \$0.20 to \$0.25 per minute for collect calling, every benefit of the doubt has been given to the service providers, and a good case could be made for even lower rates, particularly in view of the Vermont, Maryland and Missouri contracts. The estimated inmate debit rate range is supported by both a cost analysis and a comparable rates analysis, relying on both other inmate debit calling rates and comparable commercial rates. The estimated inmate collect rate range is supported by an analysis of the difference in costs between debit and collect calling, as well as comparable inmate collect calling rates. The inmate service providers, who are keeping \$0.40 to \$0.80 per minute from calls, after commission payments, are clearly earning huge excess profits from their inmate services.

I declare under penalty of perjury that the foregoing is true and correct.


DOUGLAS A. DAWSON

Executed on this 16 day of February, 2007.

EXHIBIT 1

CV OF DOUGLAS A. DAWSON

I received a Bachelor of Science in Accounting from the University of Maryland in 1977.

In addition, I received a Masters degree in Mathematics from the University of California at Berkeley in 1985.

I began my telephone career in 1975 as a test technician building telephone switches for Litton Industries in College Park, Maryland. In this position I did system integration testing and learned in detail how early digital switches operate.

My next telephone job began in 1978 with John Staurulakis, Inc. ("JSI"). JSI is a telephone consulting firm that specializes in consulting for independent telephone companies (those smaller telephone companies that were not part of the Bell System). In this job, I worked on separations cost of service studies for Independent Telephone Companies. In this role, I had my first detailed exposure to developing the costs of providing telephone service. Additionally, I performed numerous traffic studies for switches. These studies were used to determine the patterns of customer usage for switches, and were used to determine costs, but also were used to determine the most efficient way to configure the switch and the network.

Next, in 1981 I became a Staff Manager of Industry Relations at Southwestern Bell Telephone Company in St. Louis, Missouri. Southwestern Bell is a huge regional telephone company that is now part of the reconstituted AT&T. My functions there included tracking issues that impacted Bell's relationships with the independent telephone industry, calculating and negotiating various interconnection and settlement rates between companies for local calling and other network arrangements, and overseeing the review of an independent telephone company's traffic and toll cost studies. In performing the traffic studies I had hands on experience working with measuring usage on a number of different brands of switches. I also served for a period of time as a member of the rate case team for the Missouri operations. In working on rate cases, I further developed my knowledge of calculating and developing telephone costs.

In my next position, beginning in 1984, I gained operating telephone company experience at CP National in Concord, California. CP National was a holding company that owned, among other things, 13 telephone companies. I had several jobs with increasing responsibility and ended as Director of Revenues. In that capacity, I oversaw a large group that performed telephone accounting, separations and traffic engineering studies for a seven-state area. My group also monitored earnings, developed access and local rates, maintained tariffs, filed rate cases, and monitored and commented in state and federal regulatory proceedings. In this role, I was directly responsible for setting rates and for defending those rates in front of various regulatory authorities. Thus, I testified in a number of rate-making cases and regulatory proceedings in California, Texas, Nevada, Oregon and Arizona and New Mexico. Part of my responsibility at CP National included calculating costs and setting rates for four separate operator centers where the company maintained telephone operators for completing collect and other types of operator-assisted calls. While at CP National, I also became responsible for earnings monitoring and rate case development for electric, gas and water properties.

In my next position, in 1991 I again joined John Staurulakis, Inc. in various capacities. My final position there was as Director of Special Projects. In that capacity, I oversaw all projects and clients who were not historically part of JST's core cost separations business. Some of the projects I worked on included assisting clients in launching long distance companies and Internet service providers; studying and implementing traditional and measured local calling plans; developing optional toll and local calling plans; performing embedded, Total Element Long-Run Incremental Cost ("TELRIC")¹ and incremental cost studies for products and services; assisting in local rate case preparation and defense; and conducting cross-subsidy studies

¹ By "embedded" cost study I am referring to cost studies that rely on historical accounting data to calculate costs. By "Total Element Long-Run Incremental Cost", I am referring to a specific type of cost study that has been mandated by the Federal Communications Commission and that is used to calculate the costs of pieces of the network referred to as unbundled network elements, the key components that has allowed competitors to lease portions of the Bell networks.

determining the embedded overlap between telephone services. In this role, I gained in-depth experience in long distance rates rate setting and the regulatory process. I also became thoroughly familiar with the underlying costs of running a long distance company, and providing telephone service.

In 1997, I became a founder and owner of Competitive Communications group, LLC. My title at CCG is President and Chief Technical Officer and I am directly responsible for all of the consulting work performed by our company. The company began with 3 employees in April 1997 and currently has 13 employees.

As a firm we offer the following telephone consulting products and services that are needed by companies that are launching new ventures or entering new markets, all under my direct control and supervision:

- Engineering services, including:
 - Analysis of telephone hardware for switching and networks
 - Detailed network design and development
 - Developing switching specifications and provisioning new switches into service
 - Developing RFPs and analyzing vendors;
- Development of financial business plans;
- Market segmentation studies to understand markets and customers;
- Competitive research including rates and services of other providers;
- Strategic analysis and planning;
- Marketing plans;
- Regulatory work including certification of companies to provider service, development and filing of tariffs and regulatory compliance to make certain companies are meeting regulatory requirements;

- Implementation assistance for start-up companies including:
 - Negotiating interconnection agreements with other carriers
 - Negotiating network implementation and collocation of equipment with other carriers;
 - Choosing vendors for billing, back office, operator services and other external requirements;
 - Ordering trunks (telephone lines that go between different networks);
 - Detailed hands-on project management;
- Assistance in developing and implementing accounting systems;
- Development of rates;
- Calculation of costs.

EXHIBIT 2

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

In the Matter of:)
)
Martha Wright, Dorothy Wade, Annette Wade,)
Ethel Peoples, Mattie Lucas, Laurie Nelson,)
Winston Bliss, Sheila Taylor, Gaffney &)
Schember, M. Elizabeth Kent, Katharine Goray,)
Ulandis Forte, Charles Wade, Earl Peoples,)
Darrell Nelson, Melvin Taylor, Jackie Lucas,)
Peter Bliss, David Hernandez, Lisa Hernandez)
and Vendella F. Oura)
)
Petition for Rulemaking or, in the Alternative,)
Petition to Address Referral Issues In Pending)
Rulemaking)

AFFIDAVIT OF DOUGLAS A. DAWSON

STATE OF MARYLAND
COUNTY OF PRINCE GEORGES: ss

Douglas A. Dawson, being duly sworn, deposes and says:

I. INTRODUCTION

1. My name is Douglas A. Dawson, and I am the President of CCG Consulting, Inc. ("CCG"), located at 6811 Kenilworth Ave., Suite 300, Riverdale, Maryland, 20737. CCG is a general telephone consulting firm. CCG works for over 250 communications companies, which include local exchange carriers ("LECs"), competitive LECs ("CLECs"), cable TV providers, electric utilities, wireless providers, paging companies, municipalities and other governments and interexchange carriers ("IXCs").

2. I submit this affidavit in support of the above-captioned petition to have the Federal Communications Commission ("Commission" or "FCC") address certain issues involving prison inmate calling services referred to the Commission by the United States

District Court for the District of Columbia in *Wright, et al. v. Corrections Corporation of America, et al.* ("*Wright*").¹ I have specific experience and expertise relevant to the issues in this proceeding, which involves the provisioning of long distance calling for prison inmates. I have assisted in the launch of over 50 long distance companies in my career. In that role, I have done virtually everything associated with creating or running long distance businesses. I am also familiar with all regulatory aspects of long distance, including the development of rates and costs and the preparation and filing of tariffs. I have helped numerous companies select switching hardware for long distance service, and I know the capabilities and technical specifications of such hardware. I have negotiated numerous wholesale long distance service agreements between facilities-based IXC's such as Sprint, Frontier, Qwest and WorldCom, and resale carriers, and I understand the underlying long distance networks and issues associated with using them. I have had extensive experience with, and, consequently, have an in-depth understanding of, the capabilities and configurations of the network switching systems that lie at the heart of all telephone systems. I also have helped numerous companies with the provisioning of ancillary long distance products such as calling cards, operator services, pre-paid cards, international toll and Internet telephony. My CV, including prior testimony, is appended as Exhibit 1.

II. PURPOSE OF THIS TESTIMONY

3. In this affidavit, I have been asked to examine whether competition would work in the prison calling environment. Because the *Wright* case focuses largely on inmate calling at three specific prisons operated by the Corrections Corporation of America ("CCA") - the Central Arizona Detention Center ("CADC") in Florence, Arizona, the Torrence County Detention Facility ("TCDF") in Estancia, New Mexico, and the Northeast Ohio Correction Center ("NOCC") in Youngstown, Ohio - during a period when inmate calling services were

¹ CA No. 00-293 (GK) (D.D.C.).

provided there by Evercom Systems, Inc. of Irving, Texas ("Evercom"), I will use data relating to those facilities and Evercom to illustrate the points I want to make.² Evercom's inmate calling services to those prisons are typical, with regard to the rates and the methods used to bill long distance calls by prisoners, of most prison inmate calling services. The issue of inmate service competition is a generic question, and the conclusions drawn in this analysis would apply to all prison calling systems. CCA and Evercom controlled, and, in the case of the CADC and TCDF, still control, inmate calling on a monopoly basis from those three prisons and have permitted only a limited set of very expensive options for making long distance calls. I will analyze how competition could be brought to bear in inmate calling and demonstrate how it could lower inmate calling rates.

4. For the reasons set forth in this affidavit and based on my extensive background in the telecommunications field, I conclude that there are competitive alternatives to the monopoly environment found in these prisons. I will demonstrate a way that any prison system could allow open access to competition and still meet all of the security and other penological requirements of the prisons.

5. In brief, in this affidavit, I will: a) describe the history and development of telephone systems – both generally as well as specifically for prison systems; b) discuss the various penological requirements that must be satisfied by a prison calling system; c) discuss specifically the current payment methods that are used with prison calling systems; d) demonstrate that there are no justifications for prison administrators not to allow debit card or debit account calling or for inmate service providers not to offer debit card or debit account calling; and e) demonstrate the feasibility and reasonableness of opening inmate calling services to competition, so that inmates have a choice of carriers.

² On information and belief, Evercom is still providing inmate calling services to the CADC and TCDF.

III. PRISON TELEPHONE SYSTEMS

6. Since I will be discussing specific details of the various telephone systems used in prisons, such as debit systems and collect call systems, I will first discuss telephone systems generally and describe how they work. I will then discuss the specific attributes of the prison systems that relate to this proceeding.

7. Historically, all telephone systems in the U.S. began with operator assisted calling. Every call required an operator to complete a call using the large plug panels that we have all seen in movies. Even today, it is still possible to use a live operator to complete a call. In the late 1930s and into the 1940s, local switches were developed that allowed some automation in completing local calls; that is, a caller could complete some calls without using a live operator, as long as the called party was connected to the same local switch. However, all long distance calls, or even calls to other switches in the same city, still required live operators. Beginning in the 1940s and into the 1950s, automated switches were introduced that allowed for the automatic switching of calls between local switches, and this allowed for the long distance network in place today, where dialing "1" plus the long distance number allows a caller to directly dial long distance calls without the intervention of an operator. The early local and long distance switches were electromechanical. They worked by creating a mechanical connection between the called and calling party, much as operators had done mechanically before that. These electromechanical switches were not very sophisticated, and they could not perform very many functions beyond connecting calls.

8. In the late 1960s, computer technology was introduced into telephone networks. With the advent of computers, a new set of telephone services, referred to as vertical features, was developed. Vertical features are computerized functions that provide callers more sophisticated services than simply the completion of calls, such as call waiting, call forwarding, call hold and speed dialing. These features relied on the new computer core of the switch to perform logical processes. With these new switches, the old electromechanical portions of the

switch used for basic call completion were replaced with computerized hardware. During this same period, the hardware that was used by the remaining operators was also computerized, and terminals that automated many of the operator's tasks replaced the old manual plug panels. However, even with computer assistance, collect and other similar calls still required live operators in order to be completed.

9. The next big breakthrough in telephone switching systems came in the early 1980s and was referred to as Signaling System 7 ("SS7"). SS7 is a technology that provides a second electrical path in the telephone network. The original path, referred to as the voice path, is where the electrical voice signal is sent across the network to complete calls. This new second signal, the SS7 signal, uses a different frequency and allows the switching system to communicate and perform tasks without disrupting the voice path. For example, the SS7 signal is the mechanism used to transmit the telephone number of the calling party and is what enables a new service like caller ID, which allows a called party to see the caller's phone number. The new telephone products that were enabled by SS7 were referred to generically as "CLASS" (Custom Local Area Signaling Services) features. The SS7 system allowed for many of the features present in the prison telephone systems in place today. For example, SS7 allows for prison officials to monitor the numbers that prisoners dial. Many of the new CLASS Features using SS7 required computerized databases, and these were introduced into the network in the early 1980s along with SS7.

10. The next technology breakthrough that is relevant to this case is the introduction of dial pulse recognition. With dial pulse recognition, any caller with a touchtone phone is able to give feedback to questions asked by a mechanized recording. For example, in the prison system, a mechanized recording may say "You have a call from prisoner X. To accept this call dial 5." The technology needed to do this on an automated basis was created in the late 1980s. This was a significant technological breakthrough in that, for the first time, collect calls and other similar types of calls could be completed without utilizing a live operator. This

technology relied on two technologies to be implemented. First, a phone company needed to update each subscriber line card so that a given subscriber could dial using a touch-tone phone. This required significant capital outlay and was usually done as part of updating and replacing the entire switch. Second, the phone company had to update the switch core itself to be able to recognize dial pulses.

11. There are recent technological changes that also impact prison telephone systems. The most recent breakthrough is voice recognition. Voice recognition just entered the market in a useable format in the late 1990s. Voice recognition technology allows the phone system to elicit responses from customers verbally without requiring them to dial digits, as is needed with dial pulse recognition. For example, a customer may be asked to answer "yes" or "no" to a question, and the voice recognition software is set to recognize one of these two answers. This technology is now widely used in the marketplace in various collect calling systems. Today, technology has taken another leap forward, and there are now switching systems that can recognize a person by his or her voice print using voice recognition software, thus eliminating the need for PIN numbers or the use of dial pulse recognition.

12. There is one additional technology that has evolved over time that is key to prison telephone systems, and that is recording technologies that make it possible to record and monitor calls. For most of the history outlined above, no widespread technology was available to record and monitor calls on an automated basis. It has been possible for a very long time to monitor calls by having a person tap into the calls and listen to them. The ability to record calls and to later listen to them, as prison officials require, is now a key penological requirement. The first hardware that could record calls on a wide-scale basis was available in the early 1970s. This consisted of little more than a bank of tape recorders that could allow for the simultaneous recording of many calls. Such a system required a massive storage of computer tapes, and it was not easy in such a system to pinpoint or retrieve a specific call from a specific inmate. Newer recording technology is available that solves such problems. Modern recording systems

use computer drum storage, much as is done for the storage of data on a commercial company's local area network. Such storage is done digitally, and a digital record is made of each call, thus making it easy to later retrieve specific recorded calls. The size and cost of the storage devices that can be used for such a purpose have drastically decreased over time, and the cost continues to decline as digital storage techniques improve year after year, with a seeming doubling in storage capacity per dollar every 18 months or so.

13. Because of the need to satisfy penological requirements, there are unique features of prison calling systems that, in combination, differentiate them from other types of telephone systems. For many years, prison systems were at the cutting edge of technology, as prisons tried to meet their requirements with the latest available technologies. However, with the advent of modern switching technologies, technology has finally caught up to the penological requirements, and there are now many different switching platforms that can be modified to meet the requirements of prison systems.

14. A prison calling system is comprised of four basic components. First is the switching platform referred to above. This is essentially a piece of hardware that allows for the dialing and completion of calls along with a core computer logic system that allows for the creation of specific features and functions that, taken together, are unique to prison calling requirements. The second requirement for a prison telephone system is a recording storage system that allows for the easy monitoring, recording and retrieval of prisoner calls as needed. The ideal prison recording system records calls automatically and also allows authorities to easily listen to calls later. Third, the prison telephone system requires a master control system that allows the authorities to quickly intervene and modify prison calling patterns as needed. Such a master control system is basically a terminal with an easy interface into the switching system software, where authorities can make quick changes to such functions as the list of numbers that a specific prisoner is permitted to call. All modern switching systems have such control interfaces. The last component of a prison telephone system is the software

programming that enables the features that are unique to the prison system. For example, a feature allowing a called party to request to be automatically removed from a prisoner's calling list is unique to the prison system. Such a feature is created by specific software developed by a prison switch vendor to meet this specific requirement.

15. Prison telephone systems have evolved over the years in response to two trends. First, such systems have evolved to introduce new functions and features in response to the availability of new technology, as outlined above. To illustrate, consider the example of one specific penological requirement: that prison telephone systems allow prison administrators to restrict prisoners to a relatively short list of pre-approved telephone numbers that they may call. This particular requirement was not feasible until the late 1960s, when similar features were introduced into commercial telephone switching systems. As switches became more like computers, it became technically possible to devise a system that could limit prisoner calls to specific numbers. Thus, each separate penological requirement for prison telephone switching systems has only been made possible, and thus really created, in response to changes in technology. In summary, technology has expanded the ability to provide more functions with a switch, and the basic requirements for prison switching systems have constantly evolved to exploit these technical capabilities.

16. The second trend that affected the development of prison switching systems was the expansion of prisoner calling rights. For a long time, prisoners were allowed to make very few calls. However, as prisoners won greater calling rights, prison telephone systems were developed to respond to these expanded calling rights while meeting penological requirements. As prisoners called more, the penological requirements for the prison systems have grown to meet the evolving challenges presented by prisoners.

17. For many years, all prison inmate calls were collect calls. This was largely due to the fact that only a live operator could satisfy the basic penological requirement that prisoners could not make calls to those who did not wish to talk to them. There was no other way

historically to automate this function, and thus the intervention of a live operator and the use of collect calling was necessary to ensure against the harassment of witnesses and other similar abuses. Live operators are no longer needed to meet this requirement. With easily programmable switches, very complex features can be introduced today, and if a switching requirement can be imagined, it probably can be programmed.

18. The three prison facilities under examination in this proceeding -- the CADCF, the TCDF and the NOCC -- have used or now use Evercom's telephone calling systems and services for inmate calling. Evercom specializes in prison calling systems and services. According to Evercom's year-end 2000 10-K Report ("10-K Report"), it served almost 2000 prisons in the United States as of December 31, 2000.³ Evercom refers to its product as CAM (Inmate Call Access Management).⁴ The Evercom CAM system can meet all of the penological requirements described in this affidavit. Note that Evercom is not the only provider of prison telephone systems. There are several other prison switch providers, but Evercom is the predominant supplier of prison calling systems in the U.S. marketplace today.

IV. PENOLOGICAL REQUIREMENTS OF PRISON CALLING SYSTEMS

19. The following description of the penological requirements of prison inmate telephone systems is derived from various documents gathered from the manufacturers of such systems. Additionally, these requirements are usually specified in great detail in the various periodic Requests for Proposal ("RFPs") issued by the prison administrators when they are seeking a new telephone service provider. For example, these requirements are specified in detail by the Federal Bureau of Prisons ("BOP") in its 1997 Request for Proposal for its inmate

³ Evercom, Inc., SEC Form 10-K, Part II, Item 7, at "Overview" (filed June 1, 2001 for the fiscal year ended December 31, 2000) ("10-K Report"). The relevant portions of the 10-K Report are attached hereto as Exhibit 2.

⁴ *Id.* at Part I, Item 1, "Systems."

telephone system, relevant portions of which are attached hereto as Exhibit 3 ("BOP RFP").⁵ I also understand from a technical perspective how all of these penological requirements can be made to work in a prison calling system. These penological requirements for a prison calling system can be broken down into the major categories listed below. Different prisons have selected different subsets of these requirements, but overall, most prison systems are designed to fulfill the same basic list of penological requirements, which are:

- Number Control
- Personal Allowed Numbers ("PAN")
- Individual Phone and Phone Group Definitions
- Voice Prompts
- Personal Identification Numbers ("PIN")
- Monitoring
- Recording and Playback
- Reporting
- Calling as a Commodity

20. **Number Control** consists of those telephone features, such as blocking, unblocking, validation and the defining of telephone numbers, that allow the prison to control the telephone calls that can be placed by prisoners. With number control, prisons can satisfy various penological requirements. One almost universal use of number control is the prohibition against inmate calls to certain types of numbers, such as 800 or other toll-free numbers or 900 numbers. This stops prisoners from re-originating calls. It is possible, when dialing 800 or other toll-free access numbers that terminate to a non-prison telephone switch, to connect with call systems that allow the caller to get an additional dial tone and then re-originate the call to another number. The blocking of 800 and 900 calls greatly reduces the chances of

⁵ Federal Bureau of Prisons, Request for Proposal, June 2, 1997 ("BOP RFP").

call re-origination. In a modern switch, numerous types of blocking can be performed. Universal blocking rules block certain categories of calls for all inmates, such as not allowing any prisoner to call an 800 number. Individual blocking rules can also be applied, allowing certain categories of calls to be blocked for certain prisoners. Blocking can be made very specific. For example, a prison can prevent calls to an individual number, and many prison systems allow outsiders to elect not to receive calls from prisoners.

21. A related feature to blocking is **Personal Allowed Numbers ("PAN")**. PAN is a penological requirement that enables prison administrators to restrict inmate calling to a pre-approved list of telephone numbers. A PAN system thus prevents harassing calls and fraudulent telephone schemes involving calls to non-approved numbers. Any attempt to dial a number not on a PAN list is blocked by the switch.

22. Another important set of penological tools is **Individual Phone and Phone Group Definitions**. This means that prisons can control calling in any manner they choose. For example, they can limit the duration of calls. They can track the time used by a given prisoner and cap his total usage at some fixed ceiling amount per day. The prison can restrict the hours of phone usage, either universally or by prisoner. Phone Group Definitions give prison administrators control over the basic functioning of the phone system.

23. **Voice Prompts** is a series of functions that allow the prison to control how prisoners can place and use calls. For example, voice prompts can be used to warn prisoners that a call will soon be terminated if it is running too long. One penological use of voice prompts is the use of a pre-recorded announcement to let a called party know the name of the inmate making the call. Voice prompts also allow the called party to accept or reject the call before the prisoner comes on the line. The announcements now provided by voice prompts were historically provided by live operators, but these functions have been replaced today with a mechanized and computerized series of recordings designed to meet every possible and allowable type of call.

24. Another penological concern is that each inmate should have a unique **Personal Identification Number ("PIN")** that must be used in order to initiate calls. PINs ensure that inmates are identified and tracked individually. Every call can be tracked and traced to an individual inmate. The use of PINs also enables administrators to provide different telephone privileges to each inmate. The prison can place restrictions on any aspect of calling, from who can be called to how long calls last, by having all calls use the PIN system for access. The use of PINs is widespread in the telephone industry outside of prisons. PINs are used routinely for credit card calls, debit card calls, pre-paid card calls, international callback calls, within the PBXs of many large companies and in many other applications. PIN verification works by using a lookup table. In the prison example, the lookup table is a very simple one that consists of just one PIN for each prisoner. If the prisoner attempts to use a PIN that is not in the table, a call cannot be completed, and, usually, the prison is notified of the fraudulent attempt.

25. Modern prison telephone systems also require **Monitoring**. Monitoring allows prison officials to listen to calls on a real-time basis. Prisons routinely monitor inmate calls to make certain that no crimes are being committed or that people are not being harassed. A monitoring system allows the prison administrators to listen at any time to specific prisoners or to choose calls at random to monitor. Many prison telephone systems include camera surveillance of telephones along with voice monitoring. This allows the prison officials to see who is making the call while listening to the conversation.

26. Another requirement of modern prison telephone calling systems is **Recording and Playback**. This allows prison officials to listen to calls that were made in the past. For example, should a prison administrator discover a case of telephone fraud, the administrator can listen to phone calls made by the same prisoner in the past. The recording of calls is done by separate hardware that is not an integrated part of the switching system. Modern telephone recording systems usually use drum storage devices to capture and store calls, and the number of calls and the length of retention of recorded calls is limited only by the size of the storage

system chosen. Such storage devices can be programmed to allow for instant retrieval of recorded messages by the authorities, much as is done by voice mail systems widely in use. In order to control the costs, most recording systems also allow the calls to be moved from drum storage to more permanent media for long-term retention.

27. Another penological requirement is **Reporting**, which allows the prison officials to create rules for calling and then to report any violations. For example, a system might record instances when a prisoner does not know his PIN on the first try. This will help identify any prisoner who is fishing for valid PINs by trial and error. The same sort of system can be used to track sequence calling by an inmate, that is, in calling numbers that are close to each other numerically. Such calling patterns are often associated with attempts at fraud. Reporting can also show when prisoners try to call people whose numbers are blocked for them, such as witnesses and judges. Modern reporting systems have become quite sophisticated in response to the demands placed upon the telephone system by prisoners.

28. A final penological requirement is one that is not directly related to the phone system hardware. Prisons prefer to have an inmate calling system that does not create a commodity, and thus is not subject to coercion or extortion among prisoners.⁶ Typically, any system that involves funds or a commodity that can be used by prisoners can be subject to these types of abuses. No calling system – be it collect only or a debit system – can completely eliminate such problems in a prison. The ideal system will have stringent enough rules to make calling reasonably unattractive as a commodity. For example, closely scrutinizing the pre-approved list of telephone numbers that each prisoner is allowed to call greatly reduces the attractiveness of another prisoner's account, particularly if such scrutiny is combined with blocking that precludes the re-origination of calls.

⁶ This issue is not unique to a prison's telephone system, inasmuch as inmates routinely maintain commissary accounts for the purchase of sundry items.

29. These penological requirements, taken together, are unique to a prison calling system.⁷ Many of these features are used individually elsewhere in the telephony world, but only the prison systems brings all of these unique attributes together as a package. There is a definite incremental cost of providing these features. These are costs that should be recoverable by the provider of the prison calling system.

V. COST ISSUES

30. Historically prison inmate calling required collect calls using live operators. Only a live operator could make sure that prisoners were limited to the types of calling that the prison authorities allowed. But with today's technology, there is no longer any reason to use only collect calling for prison calls. For example, the Evercom system in the three sample prisons it serves or has served allows for at least two types of calling. First, it offers an automated collect call, meaning that the called party pays for the call. Second, it offers a debit product, meaning that the call is pre-paid before being placed.

31. As described above, collect calling systems historically required live operators. Ascertaining whether the called party was willing to accept charges for a call required a live operator because there was no technology available to automate such a function. Today, the vast majority of commercial collect calls are performed entirely by computers and do not require a live operator. There are a number of automated collect call products available to the general public such as 1-800-COLLECT and 1-800-CALLATT. To a large degree, except for the extra layer of penological functions, these commercial collect systems operate much like the prison collect system. To place a prison collect call, a prisoner must first dial a desired number. The prison system then maintains complete control of the call. Typically, it mutes out the prisoner so that he cannot hear the called party being queried by the automated prompts. The computerized system connects to the desired number, and when the called party answers, a

⁷ The requirements discussed above are also reflected in the portions of the BOP RFP attached hereto as Exhibit 3.

voice prompt will ask whether the called party wishes to accept the charges for a call from the prisoner. Because the prisoner is muted, the system uses a recording of the prisoner's name to announce the request. The called party is given instructions on how to accept the call if he or she wishes to pay for it. In some newer systems, the called party can accept the call by verbally saying "yes," using voice recognition software that recognizes simple words. In most prison systems, the called party will be asked to dial a digit on the phone, for example, "Dial 5 if you want to accept charges for this call." When the system receives an affirmation that the call will be paid for, the prisoner is taken off of mute, and the call is completed.

32. The network process required for completing a prison pre-paid debit call is almost identical to the processing of a collect call. In a debit system, a prisoner will also dial the desired number. The system will then put the prisoner on hold until it determines that there are enough funds available to pay for the desired call. Once it has been determined that sufficient funds exist, the call is completed. A debit platform is virtually identical to a collect system. The debit system requires the same major components -- a switching platform, a storage device with a voice mail-like system, a master control system and unique software. The only real difference between the prison collect call product and the pre-paid debit product is who pays for the calls and hence how payment is made.

33. This is a very important distinction and something that has been brought about by the convergence of technology. For most of the history of the industry, collect calls were very different from other types of calls. They required unique equipment and the use of live operators. As such, collect calls were billed under unique rate structures. However, the unique nature of collect calling has now disappeared. As can be seen in these prison systems, there is no practical difference between a prison debit call and a prison collect call, except for the decision of who is going to pay and how payment will be made. Moreover, because, as discussed below, debit calling eliminates the significant amounts of uncollected revenues that service providers experience with collect calls, debit calls ought to be the preferred prison

calling methodology. Both debit and collect calls meet all of the same penological requirements and use the same equipment. From a network perspective, the only difference is a very minor one related to call routing in the case of debit calling in order to verify that there are existing funds for the call -- a change that does not add cost to the call processing. Because debit card calling meets all of the same penological requirements as collect calling, there is no justification for restricting inmates to collect calling. All prisons thus should be required to allow debit calls. Such calls are less expensive for the providers, by definition, and should thus cost less for prisoners and families of prisoners.

34. Some prisons have not allowed debit calling, typically, on the grounds that the administrators do not want the extra administrative burdens of handling the cash for the debit payments.⁸ Prison administrators claim that creating an additional source of prisoner funds might generate an additional possibility of extortion among prisoners. However, there are many options for establishing a debit calling system that can overcome these objections. For example, the federal prison system has had a debit product for prisoners for many years. One way to avoid having an extortable commodity is to have a debit system where the called parties (the families) control the funds. In such a system, a family member would purchase a debit account under his or her own name and control. A prisoner would be allowed to call this family member as long as there were funds in the pre-paid account. Removing the cash from prisoner control will remove most of the penological concern and eliminate any additional administrative costs for the prison in handling debit accounts. As will be demonstrated below, the collect calls initiated from the sample prison systems are quite expensive. At the end of the day, it is the families and acquaintances of the prisoners who pay for collect calls. Given a choice, many of these called parties would much rather establish a personal debit fund if the calls could be cheaper.

⁸ Upon information and belief, one of the CCA facilities involved in the *Wright* case, the Northfork Correctional Facility located in Sayre, Oklahoma, did not allow inmates to make debit card or debit account calls; they were provided only the option of collect calling.

35. A debit system that allows families to pay for calls instead of having the prisoners pay would not increase costs or administrative burdens for the prison. In most contracts between prisons and providers that I have seen, the carrier usually absorbs all of the costs of running the prison telephone system, including the switch and the software. In this case, of course, Evercom also bills everyone who accepts collect calls. As long as the service provider is responsible for the cost of maintaining external family debit systems, there should be no additional cost or burdens for the prisons.

36. In the telephone industry, revenues that are billed but not collected from customers are classified as uncollectibles. A significant number of people who accept collect calls from prisoners subsequently refuse or are unable to pay for the calls. The underlying prison calling provider must absorb the lost revenues from any calls that are not collected. The uncollectible rate for inmate collect calls can be very high. According to its year-end 2000 10-K Report, Evercom states that it has always had high uncollectible revenues from inmate collect calling.⁹ However, Evercom should experience very little, if any, uncollectibles from debit calls. In a debit system, the calls are pre-paid, and when a call is placed, the service provider can instantly collect from the debit card account. Accordingly, uncollectibles in a debit system should be virtually zero. A debit system would also allow the service provider to collect the cash from calls in advance -- at least thirty days earlier than with collect calling -- which is a big plus for any telecom provider.

37. Prison administrators have argued that debit calling does not offer as many penological safeguards as collect calling. In particular, they point to the penological requirement that telephone privileges not become a commodity. They suggest that allowing prisoner debit accounts can create a currency or credit that can be sold or extorted. The federal system, however, which allows debit calling, has taken several steps to reduce the possibility

⁹ Evercom's 10-K Report, which is attached hereto as Exhibit 2, states, in Part I, Item 1, at "Federal Regulation," that "[b]ad debt is substantially higher in the inmate telephone industry than in other segments of the telecommunications industry."

that debit calling might result in the creation of a commodity. The Federal BOP has very strict rules concerning the ability of prisoners' families to replenish the funds in a debit account. They restrict such debit fund payments to a small list of outside parties that includes lawyers and direct family members. Other penological tools also help to reduce the possibility of creating a commodity. For example, strictly limiting the calling for each prisoner to a pre-approved list of telephone numbers greatly reduces the attractiveness of any other inmate's account, particularly if this technique is combined with the inability to re-originate calls. It should also be kept in mind that a collect calling system can be abused as much as a debit calling system. Whatever value can be extorted from another inmate's debit account could also be extorted from his collect calling PIN. If implemented properly, as has been done in many prisons, there is no specific advantage to collect calling over a debit system.

38. In summary, a debit card system can meet all of the same penological requirements as a collect system. The only real difference between the two systems is who pays for calls and how they pay. In a properly designed debit system, there is no additional burden for prison officials. There also does not have to be an additional source of funds available to prisoners that can be extorted. The only real difference between a well-designed debit system and a collect system is how the prisoners or the families of prisoners pay for calls. There is therefore no penological justification for limiting inmates to collect calling services, rather than providing a choice between collect and debit calling.

VI. COMPETITION IN PRISON CALLING

39. Many prison inmates and families of prisoners, including the petitioners in this proceeding, have asked for the introduction of competition into inmate calling services. In every other segment of the telephone industry, competition has very effectively lowered the cost of long distance calling. The cost of calling has tumbled everywhere over the last few decades except within prisons like the ones in the referral case. This affidavit will demonstrate that it would be economically and technologically feasible to introduce competition into prison inmate

calling services, consistently with all legitimate security and other penological requirements, thereby allowing for more options for families and ultimately resulting in lower rates. As other observers have noted, the penological justifications for exclusive inmate calling service arrangements are factually unsubstantiated and pretextual.¹⁰

40. The best way to get competition into inmate calling services, and thereby benefit prisoners' families or other telephone service bill payers receiving calls from prisoners, would be to allow inmates to choose among different IXCs; in effect, to create an equal access multi-carrier platform for each prison calling system. One possible mechanism for such a system will be discussed in more detail below. One question that is routinely asked by family members is why the prisons do not allow the use of commercial calling products, such as 1-800-COLLECT or commercial debit cards. As described above, these commercial products allow the re-origination of calls. Prison administrators claim that the prison system needs to maintain control of the call from beginning to end for security reasons and that if a prisoner were allowed to use a commercial calling platform that allows the re-origination of calls, many of the penological safeguards discussed above would be bypassed, thereby making abuses possible. Leaving aside the merits of such claims and the potential use of techniques to maintain control over re-originated calls, it would be feasible to allow multiple IXCs to offer services to any given prison facility, and thereby bring the benefits of competition to prison inmate calling, while meeting all of these objections to the use of standard commercial calling products.

41. Following is one such mechanism that could be used to allow multiple carriers to compete within a prison calling system. There may be other mechanisms that will work, but the goal of this example is to demonstrate that competition is technologically and economically feasible, consistent with all of the security and other penological concerns discussed above. The

¹⁰ See Justin Carver, *An Efficiency Analysis of Contracts for the Provision of Telephone Services to Prisons*, 54 Fed. Comm. L.J. 391, 394 (2002) ("Carver"). A copy of this article is attached as Exhibit 4 hereto.

primary reason to provide for multiple carriers is to allow choice, thereby creating competition and the resultant lower rates. The FCC has spent considerable effort in the last twenty years to ensure that consumers everywhere have choice, and the presumption has always been that choice is beneficial. The evolution to more choices for long distance and local calling has led to lower prices, creative new products and overall greater satisfaction among telephone subscribers in the U.S. However, the families of prisoners in the CCA and other prison systems are the last group of telephone consumers in the U.S. who are still being denied choice.

42. One way to allow competition in prison inmate long distance calling services would be to authorize a multi-carrier platform provided by an underlying service provider in each prison that would supply the prison telephone system hardware and software. This underlying provider would supply the switch and software, the phones, the management control system and any other required components of the prison calling system. The various carriers offering competitive long distance services to the inmates would interconnect with the underlying carrier's prison telephone system. The underlying service provider could be compensated for providing the prison telephone system by a charge imposed on the interconnecting competitive carriers, based on the costs of installing and operating the prison system. This charge would compensate the underlying carrier for the switch, software, maintenance and operating costs for providing the system, but would not include the cost of providing the long distance transmission. The underlying provider could recover its costs through a per minute charge levied against all long distance calls placed from the prison and carried by one of the competitive service providers. As discussed below, these costs would range from 4.4 to 5.9 cents per minute.

43. In order to implement a long distance multi-carrier choice through a prison telephone system switch, each competitive carrier should be required, at its own cost, to provide long distance transport facilities to the prison switch. These facilities would typically consist of T-1 trunks (a digital transmission link with a capacity of 1.544 Mbps, enough for 24 simultaneous voice conversations), that go from the prison switch to the IXC's point of presence

("POP"). Each IXC also would be required to pay the underlying carrier for the fixed cost per minute of providing the prison system. Each IXC would then be free to compete on price and service to get the prison calling business. Each IXC would be free to charge any rate it chose as long as it agreed to first pay the underlying provider to interconnect with the prison system. In such a competitive system, the underlying provider could also be allowed to offer a competitive long distance product along with the other competitive carriers, as long as it also covered its basic per minute system fee on an imputed basis.

44. In this way, prisoners, or the prisoners' families, would be able to select the carrier of choice from a menu of available interconnecting carriers. Today, the prisoners get a prompt in most prisons to choose between debit calls and collect calls. In the competitive environment, they would get an additional prompt asking them to select a carrier for whichever type of call they elected to use. Prisoners could also be allowed to "choose" a carrier on a more permanent basis in order to avoid going through the carrier selection screen for each call. The competitive carriers would be free to market directly to the people who actually pay for the long distance calls made by prisoners -- in most cases, the families. Families could elect to purchase calling products from the competitive carriers offering the best deals. Since there is such a large volume of calls made from prisons, a number of different carriers could be expected to compete for the business from each prison. There is little doubt that such side-by-side competition among multiple IXCs would lead to much lower long distance rates than those in place in these prisons today.

45. It is important to note that even in such a multiple-provider system, all of the penological requirements discussed above would continue to be met. The software in the prison telephone system switch would continue to provide all of the necessary security functions, just as it does today. Adding a choice of carrier to the calling process would not affect or modify any of the penological safeguards built into today's systems. Prisoners would still place calls under the complete control of the prison phone system. This system would maintain control of the entire

call using all of the rules and safeguards in place today. A call would only be completed after it could be ascertained that the prisoner was not making unauthorized calls and that the carrier was being paid for the call. Because the long distance provider carrying the call would be interconnected at the prison system switch, control over the entire call could be maintained, just as it is today. At the end of each call, the underlying service provider would assess the system fee to the IXC carrying the call. The IXC that handled the call would then charge the inmate's debit account for the call, including the underlying system fee.

46. There have been other proposals in the past that have suggested ways to offer competitive calling in prisons. Some of them involve handing off inmate calls to another network not directly interconnected with the prison telephone system. The proposal set forth in this affidavit would require that the underlying carrier process a call up to the point where the call was handed off to an IXC for completion. That hand-off would take place at the switch exclusively serving, and under the administrative control of, the prison. There would be a requirement that calls remain under the control of the initial switch for the entire duration of the call. Competitive carriers would be prohibited from transferring any inmate calls to other IXCs or to any carriers other than the terminating LEC serving the called party. The interconnecting carriers thus would be in the business of completing long distance calls, but, because they would take the calls at the prison system switch and deliver them to terminating LECs, they would not have the ability to bypass any of the penological requirements of each prison, which would be implemented and enforced by the underlying switch provider, just as Evercom enforces those requirements today.

47. As demonstrated above, this competitive proposal would be technically feasible and would not be a major burden for carriers, it would safeguard the rights of consumers, and it would maintain all of today's penological safeguards. It would also attract numerous additional competitive IXCs to compete for long distance inmate calling service. Most IXCs would view a

prison system, with its many concentrated minutes, to be a premium opportunity to be pursued. If we build a competitive environment, the carriers will come.

48. Implementing such a competitive system would cause a fundamental change in the way that the underlying provider does business. Allowing multiple carriers to compete would require some hardware and software changes to the prison calling systems. While these changes are relatively minor, there would be some small incremental start-up costs in implementing competition. In the past, the FCC has not hesitated to impose requirements that increase carriers' short run costs when such changes were necessary to facilitate competition. There are numerous examples of FCC orders that have required carriers to expend money for capital and software. In recent years, we have seen orders requiring the provision of "LIDB" (line information database) functions,¹¹ payphone call tracking¹² and others. As will be demonstrated below, the capital required to implement a competitive solution is too insignificant to be a barrier to change, especially given that the underlying telephone system provider would be able to recover the complete cost of providing the prison calling system from each call, including a reasonable profit.

49. There is no question that introducing competition into the prison calling system is in the public interest. Regulatory bodies have often assumed that exclusive inmate calling service arrangements were required in order to meet legitimate security and other penological

¹¹ See generally *Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards*, 7 FCC Rcd 3528 (1992) (subsequent history omitted) (requiring LECs to provide non-discriminatory access to the validation and screening information located in the LECs' line information database so that IXC's can accept and complete calling card calls).

¹² See *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 20541, 20588, 20590-91 (1996) (subsequent history omitted) (requiring IXC's to track calls they receive from payphones in order to ensure fair compensation for each payphone call, despite the IXC's' claims that implementing tracking mechanisms would require significant expenditures of capital).

requirements, and this assumption has contributed to past rulings that have upheld the current prison inmate calling regime. In the past, that assumption might have been valid. At this point, however, as explained above, it is clear that competitive long distance inmate calling services are perfectly compatible with security, antifraud and other penological requirements. Given that it is typically non-inmates -- families and attorneys -- that ultimately pay for inmate long distance calls, it must be concluded that these consumers deserve the same rights to choice as do all other callers. Moreover, lowering the cost of prison inmate calling would bring about penological benefits, such as improving family relations for prisoners and improving the chance of successful rehabilitation and integration into the community after the sentence is completed. Finally, as demonstrated below, the competitive system envisioned here would be economically feasible.

VII. THE COST OF PRISON INMATE CALLING

50. This section will explore the potential cost of providing the competitive prison system described above. The goal in this section is not to specifically identify the precise costs of providing inmate long distance calling services. Rather, this section is intended to examine whether such a system would be economically feasible by analyzing the potential range of costs, particularly the costs of the underlying system that would be used by all of the competitive IXCs.¹³ As will be demonstrated, even the most conservative estimate of the cost of implementing this proposal is so reasonable that any objections to it based on cost burdens could not be valid. Several different sources have been reviewed in analyzing the costs that would be incurred by the underlying system provider, including Evercom's public financial data. Evercom is a useful source of data, not only because it is the primary provider involved in the referral case, but also because it is one of the largest prison inmate calling service providers in the country.

¹³ The cost of providing the long distance segment of the service will also be discussed, but only as a comparison with other estimates filed with the FCC by inmate service providers. The primary focus of this analysis will be the costs of providing the underlying telephone system. The costs of the long distance segment "wash out" of any economic feasibility analysis because competition in the provision of the long distance segment of the inmate service will quickly reduce the rates charged by the competitive long distance carriers to the most efficient cost.

Cost data provided to the FCC in filings by inmate telephone calling service providers also provide confirmation of the conclusions reached below.

51. The following calculations are intended to quantify a range of rates that would need to be charged by the underlying system provider under the proposal. These rates are intended to be profitable for the underlying system provider; thus, the rates include a profit margin in addition to costs. Because Evercom is the primary provider in the prisons under examination, the first set of calculations is based upon Evercom's costs as an example of how such costs might be calculated. The costs for other experienced providers should be similar.

52. Based on my knowledge of the industry, financial reports from Evercom,¹⁴ and evidence about Evercom's and other inmate service providers' costs from the public record in other cases, the basic components of prison system costs are defined below. The costs of a prison calling system include the hardware that makes up the prison phone system, maintenance, billing, administration and sales, uncollectibles, and the cost of providing long distance transmission and local termination.

53. The hardware in a prison calling system consists of the switch, the recording system, the monitoring interface and the cost of telephones in those cases where the phones are not provided by the prison. The cost of switching hardware has dropped tremendously over the past few years. There are two primary types of switches that can be purchased -- carrier class switches and enterprise switches.¹⁵ A carrier class switch must be able to interface with the

¹⁴ Evercom's December 31, 2000 Independent Auditor's Report by Deloitte & Touche LLP is an attachment to the 10-K Report, relevant portions of which are attached as Exhibit 2 hereto. I have also reviewed Evercom's 10-Q Report for the quarter ended September 30, 2001. Evercom's 10-K Report for 2000 is the most recent SEC report covering a full year, however. Because the September 30, 2001 10-Q Report covers only one quarter and shows little change from the data in the 10-K Report relevant to this analysis, this affidavit relies on the more complete 10-K Report.

¹⁵ As used in this discussion, the term "enterprise switch" has a different meaning from the way that term is used in the FCC's *Triennial Review Order*. See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on

larger public switched telephone network and is generally used only by LECs. The switches required for prisons are enterprise switches, and are somewhat analogous to the large PBXs used by many businesses. Because enterprise switches are smaller and simpler than carrier class switches, they are far less expensive. A switch has several major components -- the line side connections, the trunk side connections, the operating software and a user interface. The line side connection is the hardware that interfaces with the telephone sets that use the switch. From the line side perspective, prison switches are relatively small switches. According to data included in the June 2, 1997 BOP RFP, the average federal prison has just under 44 telephone sets.¹⁶ The trunk side connection is the interface to the public telephone network. As described elsewhere in this paper, these switches today only require only a handful of T-1 connections to the public switched telephone network -- making these relatively small switches. The most costly feature on a prison switch is the specific software that allows the switch to meet the various penological requirements listed earlier. If one were to develop such a switch for only one prison, such software would be quite expensive. However, most prison providers supply switching to many prisons, thus lowering the cost of this software on a per location basis. Evercom supplies switches to about 2,000 prisons, and thus its software cost is spread over many locations and is relatively inexpensive per switch.

54. The cost of switching has dropped drastically over the last few years. As an example, a small Class 5 carrier grade switch that can handle 5,000 lines would have cost \$2 million - \$3 million just a few years ago. In the last several months, such switches have been available from every major switch manufacturer -- Lucent, Nortel and Siemens, plus a number of the new soft switch manufacturers -- for under \$600,000, due in part to the collapsing of the

Remand and Further Notice of Proposed Rulemaking, CC Docket No. 01-338, FCC 03-36 (Aug. 21, 2003). There, "enterprise switch," *see id.* at ¶ 428 n.1335, refers not to a type of switch but to any carrier class switch used by a CLEC to serve large business customers. *Id.* at ¶¶ 419-22. Here, it refers to the type of switch used by large non-carrier entities.

¹⁶ *See* BOP RFP, Exhibit J-1, attached hereto as Exhibit 5 (3850 telephones in 88 prisons).

telecom sector and resulting overcapacity. Even as far back as 1999, this Commission calculated that carrier class switches cost less than \$500,000.¹⁷ Switch costs have fallen considerably since then, and especially since the collapse of the high-tech bubble. Recently, observers have found carrier switches advertised for as little as \$100,000.¹⁸ As noted above, enterprise switches are far simpler and less expensive than carrier switches. Based on my recent experience in pricing switches for clients, a conservative current estimate for an enterprise switch with the features needed for a prison telephone system, including monitoring and recording equipment, would be approximately \$350,000.

55. Moreover, there is a trend in the switching world that is going to lower the cost of switching even further in the near future, and this innovation is particularly relevant to prison calling systems. There are a number of new switches in the market referred to as soft switches. A soft switch is a switching device that separates the various switching functions into separate components. The major components of a soft switch are referred to as the call processor, the media gateway, the signaling gateway and the feature server. The call processor is the same as the core of the older switches and is the device that actually switches and routes calls. The media gateway is a device that allows for the interface to various other switching platforms. There is no real analog to the media gateway in older switches -- they were proprietary and self-contained. The signaling gateway allows the switch to interface with the SS7 network and thus use advanced features such as caller ID. Finally, the call feature server is the device that contains the unique systems and programs that operate the various features on the switch. The feature server in a soft switch would contain all of the unique penological features that distinguish prison

¹⁷ See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Red 3696, 3812-13 (1999).

¹⁸ "State Regulators Courted by ILECs and IXC's on UNE-P Role," *Communications Daily*, April 28, 2003, at 2 (comment attributed to Link Hoewing, Verizon Assistant Vice President-Internet), attached hereto as Exhibit 6.

switching systems from other systems. The availability of soft switches is relevant because they will allow a further large reduction in the cost of providing prison calling. With a soft switch platform, a prison provider could serve many prisons from one switching platform. For example, it would need only one feature server and one signaling gateway at some central site in the U.S. At each prison, it would need only the call processor. Such a distributed network would probably represent an additional 50 percent reduction over today's cost of switching, and this distributed architecture is ideally suited for applications like prison calling that require services at many different locations. Thus, any costs quoted in this paper can be expected to further decrease over time as technology takes yet another leap forward.

56. Service providers like Evercom are often required to provide the telephone sets as part of providing service to a prison. The phones used by prisons are more expensive than the average phones used by most business and residential users. Prison phones are more like payphone sets, in that they are built to stand up to heavy use. There are a vast number of types of payphones available in the marketplace. Payphones vary in the functions they must perform and in the ruggedness of the environment for which they are constructed. Prison payphones can be of the "dumb" variety, *i.e.*, they do not need to be able to perform such functions as coin counting. "Smart" telephones that process coins cost more than dumb phones that do not. Additionally, a prison phone does not need any of the advanced features often seen on payphones today, such as a scanner that can read in calling card information from a caller. Prison payphones can be of the most basic type, in that they require a keypad on which to dial the desired numbers, and, in the case of the competition proposal presented in this affidavit, to choose the desired IXC, but very little else. The payphone industry is very competitive, and there are a large number of manufacturers and thus a wide range of prices. Based on recent market research, there are

payphones that would work in a prison environment that are available from as low as \$280 up to \$550, with an average prison payphone price of \$400.¹⁹

57. In order to translate that per-phone set estimate into an estimated payphone equipment cost for a typical prison, it is necessary to examine prison inmate telephone data. The data in the BOP RFP shows that the federal prison system has one telephone for every 25 prisoners.²⁰ Using a subset of the federal data, an attachment to a report from the Virginia State Corporation Commission²¹ shows a ratio of 1 telephone per 26 inmates.²² The three sample CCA prisons served by Evercom have an average capacity of 1,743 prisoners²³ Using that sample, applying a ratio of one phone per 25 inmates yields an average of 70 telephones per prison. Applying the \$400 average payphone cost to the estimate of 70 phones per sample prison yields a total payphone cost of \$28,000 per prison. Adding that cost to the \$350,000 switch estimate above results in an average total equipment cost per prison of \$378,000.

¹⁹ Attached as Exhibit 7 are sample advertisements from payphone websites for equipment that would be suitable for inmate services showing prices as low as \$149. An estimate of \$400 for an inmate telephone set is also consistent with the Commission's estimate of \$225 for a coinless payphone for general use in the Third Report and Order, and Order on Reconsideration of the Second Report and Order, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 2545, 2622, 2634 n.404 (1999), *aff'd sub nom. American Pub. Communications Council v. FCC*, 215 F.3d 51 (D.C. Cir. 2000).

²⁰ See BOP RFP, Exhibit J-1, attached hereto as Exhibit 5. The total number of federal prisoners shown in this chart is 97,579, and the total number of phones is 3,850, or 25.35 prisoners per phone.

²¹ Div. of Communs., Virginia State Corp. Comm'n, Report on Rates Charged to Recipients of Inmate Long Distance Calls (2000) ("Virginia Inmate Report"), attached hereto as Exhibit 8.

²² Analysis of the Federal Bureau of Prisons Inmate Telephone System and Applicability to the California Department of Corrections, Executive Summary at 1 ("CDC Report") (attached to Virginia Inmate Report) (see Exhibit 8).

²³ The three prisons are as follows: Central Arizona Detention Center – 2,304, Torrence County Detention Facility – 910, and Northeast Ohio Correction Center – 2,016. See Correctional Corporation of America web site, at <http://www.correctionscorp.com/map.html>.

58. In deriving an estimate of total operating costs, the cost of the switch and the telephones is reflected as depreciation expense. Evercom's audited financial statements show that it uses straight-line depreciation and that it uses depreciation lives of between 3.5 years and 7.5 years for telephone system equipment.²⁴ In the cost calculation set forth below, a depreciation life of 5.5 years is used, which is in the middle of Evercom's range of depreciation lives. This depreciation life also aligns very well with the typical length of a typical inmate service provider contract with a prison system, which is approximately five years,²⁵ and with data filed by the Inmate Calling Services Providers Coalition ("Coalition"),²⁶ of which Evercom is a member.²⁷

59. Another major cost of providing service is maintenance expense. Maintenance expense includes spare parts, repairs and the personnel required to answer customer questions and keep the systems working. Most companies budget maintenance as a percentage of equipment costs. This ratio can be used for Evercom by taking the maintenance expense figure set forth in its 10-K Report. There, Evercom states that its maintenance expense has been steady

²⁴ See 10-K Report at Part II, Item 8, Notes to Consolidated Financial Statements, Note 1, "Property and Equipment," attached hereto as Exhibit 2.

²⁵ See Carver, 54 Fed. Comm. L.J. at 395 n.20, attached as Exhibit 4 hereto.

²⁶ The Coalition uses a depreciation life of five years in its calculations of equipment costs. See, e.g., Don J. Wood *et al.*, "Inmate Phone Local Call Cost Study" D.3.3 (May 24, 2002) ("Inmate Cost Study") (attached to Comments of the Inmate Calling Service Providers Coalition, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128 (May 24, 2002) ("2002 Coalition Comments")). The relevant portions of the 2002 Coalition Comments are attached hereto as Exhibit 9.

²⁷ See *ex parte* letter from Robert F. Aldrich, Counsel to the Inmate Calling Service Providers Coalition, to Magalie Roman Salas, Secretary, FCC, at attachment captioned "Independent Inmate Phone Service Providers (as of May, 2000)" (May 9, 2000), the relevant portions of which are attached as Exhibit 10 hereto.

and varies little over time.²⁸ The amount of maintenance expense equates to approximately 13.2 percent of equipment costs.²⁹ This is the ratio used for estimating maintenance expense in the operating cost calculations set forth below.

60. Another cost that prison providers face is billing costs. Most inmate calling service providers do not have direct billing relationships with the family members of prisoners, or others receiving collect calls from prisoners, across the U.S. Instead, the inmate service providers typically pay a third party, usually the Regional Bell Operating Company or other LEC serving the party paying for an inmate call, to bill such parties for them. In its 10-K Report, Evercom states that billing costs paid to third parties vary between 2 percent and 3 percent of the revenues billed.³⁰ Accordingly, in the cost calculations set forth below, a figure equivalent to 2.5 percent of revenues is used to estimate billing costs. It should be noted that significant billing costs apply only to collect calling. The only billing cost required for a debit call is the cost of electronically extracting revenues from the pre-paid debit account, an insignificant expense per transaction. Given that Evercom provides both collect and debit calling to inmates, its reported billing costs represent an average for both types of services. Thus, its actual billing costs for collect calling only are probably much higher than 2.5 percent of collect calling revenues.

61. In order to derive an estimate of billing costs, it is necessary to compute a composite average per-minute revenue amount to which the 2.5 percent ratio can be applied. The ratio of collect to debit calling varies from prison to prison, although there is still more collect calling than debit calling. For simplicity, it is assumed that, once this competitive

²⁸ 10-K Report at Part II, Item 7, "Field Operations and Maintenance," attached hereto as Exhibit 2.

²⁹ Evercom's 10-K Report shows maintenance expense of \$6.67 million (in Part II, Item 6) and total equipment costs of \$50.39 (in Part II, Item 8, Note 4 to Consolidated Financial Statements, "Property and Equipment"), a ratio of 13.2 percent (\$6.67M/ \$50.39M). See Exhibit 2.

³⁰ *Id.* at Part I, Item 1, "Billing Arrangements."

proposal is adopted, it would be reasonable to expect that half of the calls will be debit calls and half will be collect. Using Evercom's tariffed rates during a portion of the period it was providing service to the CADC, TCDF and NOCC -- a debit card rate of \$0.65 per minute and a collect calling rate of \$0.59 per minute plus a \$3.95 per collect call charge -- and assuming a ten-minute call, the composite calling rate charged to inmates would be \$0.82 per minute in the cost calculation below.³¹ If prisons were to switch to debit calling only for inmate calls, billing costs would essentially disappear.

62. Another major cost for inmate service providers offering collect calling is the cost of uncollectibles, as mentioned previously. Evercom does not show uncollectibles as a separate item in the financial statements in its 10-K Report. Evercom does state in the 10-K Report, however, that although inmate prepaid calling services have minimal uncollectible expenses,³² called parties' failure to pay for inmate collect calls place unique demands on this sector of the industry.³³ Data provided by the Coalition in an *ex parte* letter filed in April 2000 with an

³¹ During the period from September 14, 1999 to the detariffing of Evercom's rates on June 27, 2000, Evercom's standard tariffed debit card service rate, which applied to its Inmate-only Debit Account Service, was \$0.65 per minute. See Evercom Systems, Inc. Tariff FCC No. 1, Section 3.4.1 (effective Sept. 14, 1999), and FCC Public Notice, Tariff Transmittal Public Reference Log (June 29, 2000), and its standard tariffed rate for interstate, interexchange operator assisted inmate calls, including collect calls, was \$0.59 per minute plus a \$3.95 service charge. See Evercom Systems, Inc. Tariff FCC No. 1, Section 3.5 (effective Sept. 14, 1999). For a ten-minute collect call, that comes to \$0.99 per minute for collect calls. The average of \$0.65 and \$0.99 is \$0.82 per minute. The relevant portions of Evercom's Tariff No. 1 are attached as Exhibit 11 hereto.

It should be noted that in the event that this competitive proposal is adopted, actual inmate rates will be far lower than they have been in the recent past. The 82 cent rate is used here purely as a conservative estimate. As demonstrated below, the cost of billing drops out in deriving the cost of providing the underlying inmate telephone system.

³² 10-K Report at Part I, Item 1, "Products and Services" ("Prepaid Services"), attached hereto as Exhibit 2.

³³ *Id.* at Part I, Item 1, "Industry Overview."

attached analysis of the cost of providing a 12-minute local inmate collect call ("Coalition Cost Analysis"), show a typical uncollectibles rate for inmate collect calling of 14 percent of revenues, and, in some cases, over 23 percent.³⁴ Accordingly, the cost calculation below uses a 15 percent uncollectibles rate to apply to collect calling. Because there are virtually no uncollectibles from debit calls, for which revenue is collected directly from prepaid accounts, however, the overall uncollectibles rate must be adjusted to take into account a mix of collect and debit calling. Using the assumption discussed above that half of the calls will be debit calls and half will be collect, the composite uncollectible rate would be 7.5 percent of total revenue, and that rate is applied to an assumed composite calling rate of 82 cents per minute in the cost calculation below.³⁵

63. One of the largest costs incurred by inmate calling service providers is the category of "Administration, General and Sales" expenses. On Evercom's financial statements, this includes a broad category of costs. In addition to the cost of the salespeople who sell to prisons and related expenses, it includes the following types of costs: executive salaries, board of director expenses, accounting, legal, human resources, computer networks, insurance, the cost of running corporate headquarters and other overhead costs. In Evercom's case, for 2000, these costs were roughly 2.6 times greater than maintenance costs.³⁶ Accordingly, a ratio of 2.6 times

³⁴ *Ex parte* letter from Jacob S. Farber, Counsel to the Inmate Calling Service Providers Coalition, to Magalie Roman Salas, Secretary, FCC, at attachment, "Inmate Service Fee - 12 Minute Local Call Cost Analysis" (April 6, 2000) (uncollectibles rate for inmate collect calls of 14 percent) ("Coalition Cost Analysis"), attached hereto as Exhibit 12. *See also*, 2002 Coalition Comments at 3-4; Inmate Cost Study at Workpapers labelled Input C, Input G, Input H, Input N, Input O and Input P (showing inmate collect uncollectibles rate of over 23 percent), and Input Q (showing uncollectibles rate of over 19 percent), attached hereto as Exhibit 9.

³⁵ As explained below, the cost of uncollectibles, like billing costs, drops out in deriving the cost of providing the underlying inmate telephone system, since the underlying system operator recovers its costs through rates charged to the competitive interconnected long distance carriers terminating each call, obviating any billing or uncollectibles costs.

³⁶ 10-K Report at Part II, Item 6 (showing maintenance costs of \$6.7 million and selling, general and administrative costs of \$17.7 million). *See* Exhibit 2.

maintenance costs is used to represent an allocation for administration, general and sales expenses in the cost calculation below. It should also be noted that the Coalition has represented overhead expenses to be just slightly less than 2.5 times maintenance expenses in their filings with the FCC.³⁷

64. Another cost of providing long distance inmate calling service is the cost incurred in the transmission and termination of the calls, *i.e.*, the cost of long distance transport to the called party's local calling area and the cost of terminating each long distance minute at the final destination. In the competitive scheme described here, this cost would be borne by the competitive interconnecting carriers, rather than the underlying inmate telephone system provider. For long distance transport, carriers typically use T-1s or larger circuits. In this case, such circuits would begin at each prison switch and reach to the nearest POP on the interconnecting carrier's toll network. Using the average of 70 telephones in each prison, as discussed above, a service provider would need approximately three T-1s for transport to its long distance network. Because a single T-1 has 24 voice channels available, three T-1s would allow for 72 simultaneous calls. Based on my recent experience, an average T-1 circuit costs around \$400 per month. T-1 costs vary drastically across the U.S. by market, but \$400 is a conservatively high estimate of the composite monthly cost of T-1s across the country. Accordingly, an annual transport cost of \$14,400 is used in the cost calculation below.³⁸

65. Evercom, like most inmate service providers and other IXC's, does not own a nationwide long distance network. It therefore has to pay a wholesale IXC to carry each long distance inmate call to the recipient's local calling area and to arrange for local terminating

³⁷ See Coalition Cost Analysis (showing overhead -- \$0.224 per call -- equal to 2.49 times maintenance -- \$0.09 per call -- for an inmate local collect call), attached hereto as Exhibit 12.

³⁸ Four hundred dollars per month for an average T-1 circuit is a rate that would be available only to a carrier purchasing a fairly large volume of capacity. That rate multiplied by three circuits multiplied by 12 months equals \$14,400.

access to the recipient. Such wholesale long distance contracts are routine for long distance resellers like Evercom, which typically use the underlying network of one or more large IXC's, such as AT&T, MCI (formerly known as WorldCom) or Sprint.³⁹ A carrier would have to pay no more than 2.5 cents per minute to get long distance calls terminated through one of these facilities-based IXC's. As far back as 1996, the Coalition estimated that its members' long distance transmission cost was approximately 2.5 cents per minute.⁴⁰ Since then, long distance wholesale costs have declined drastically, and wholesale long distance terminating rates, including terminating access charges paid to the terminating LEC, are now as low as 1.8 cents per minute for large volume users.⁴¹ Accordingly, the 2.5 cents per minute rate will be used as a conservative estimate of long distance transmission plus termination in the cost calculation below, although these costs are certainly lower today.

66. Finally, it is necessary to estimate the volume of long distance usage from the average prison. Based on available data, a low and a high estimate of calling volume can be derived in order to develop a range of possible per-minute costs. This exercise also shows that costs decrease with increased calling volume. The low estimate assumes that each prisoner averages one hour of calling per week, and the high estimate assumes that each prisoner averages

³⁹ It should be noted that, although resellers obtain facilities from other carriers, a reseller carrying an inmate call would nevertheless be fully capable of retaining complete control over the entire transmission of the call.

⁴⁰ See Comments of Inmate Calling Services Providers Coalition at 8 n.14, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128 (July 1, 1996) ("1996 Coalition Comments"), attached hereto as Exhibit 13. AmeriTel Pay Phones, Inc. and InVision Telecom, Inc., *see id.* at 1 n.1, were predecessors to Evercom. See 10-K Report at Part I, Item 1, "General," attached hereto as Exhibit 2.

⁴¹ Of that 1.8 cents per minute, only .71 cents per minute was accounted for by local terminating access charges as of June 2003. See Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, Trends in Telephone Service at Table 1.2 (August 2003). The relevant portions of the FCC's report are attached hereto as Exhibit 14.

1.5 hours of calling per week. The low estimate is derived from a report prepared by the California Department of Corrections concerning the BOP inmate telephone system, which estimated that BOP inmates average 242 minutes of calling per month (approximately one hour per week).⁴² The higher estimate is derived from the BOP RFP discussed above, which indicates that the average federal prisoner makes 1.4 hours of long distance calls per week.⁴³

67. There is one additional cost of prison calling that is not included in these cost figures. Many prison systems charge a commission to inmate service providers as a cost of doing business in the prison. As this Commission reiterated in the *Inmate Payphone NPRM*, location rents (*i.e.*, commissions) are not legitimate costs of providing service; rather, they are an element of profit.⁴⁴ Additionally, not all prisons systems charge commissions. For these reasons, commissions have been excluded from these cost calculations. Commissions have also been removed from the comparable costs figures cited from other FCC filings discussed throughout this affidavit. It should be noted that, although commissions are not a legitimate expense of inmate calling services, as a practical matter, they nevertheless inflate the rates charged by Evercom and other service providers. According to the Coalition Cost Analysis, commissions amount to 30 percent of the total cost of inmate calls, including all profit.⁴⁵ If that is true, commissions add another 43 percent (*i.e.*, 30% / 70%), to total costs before commissions, which must be presumed to exert a commensurate upward pressure on calling rates.

⁴² CDC Report, Executive Summary at 1 (attached to Virginia Inmate Report) (attached hereto as Exhibit 8).

⁴³ Exhibit J-2 of the BOP RFP shows an average of 4,991 minutes per year of telephone usage per inmate, of which 749 minutes are local calls, for an average of 4,242 long distance minutes per year, which is slightly under 1.4 hours per week of long distance calling. Exhibit J-2 is attached hereto as Exhibit 15.

⁴⁴ Order on Remand & Notice of Proposed Rulemaking, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd 3248, 3255 & n.49 (2002) ("*Inmate Payphone NPRM*").

⁴⁵ See Coalition Cost Analysis, attached hereto as Exhibit 12.

68. Following is a calculation of the total cost per minute of running a prison calling system using all of the assumptions and inputs discussed above. Because costs vary by call volume, one can easily postulate that costs also vary by prison size, with larger prisons having lower per minute costs. As noted above, the three sample CCA prisons currently or previously served by Evercom have an average population of 1,743 prisoners. The cost calculation is set forth in two columns, with the first column showing low prisoner calling at one hour per prisoner per week and the second column showing 1.5 hours of calling per prisoner per week. Each entry will first be calculated on an annualized basis, rounded off to the nearest thousands of dollars, and then divided by the low and high call volume estimates in order to derive low and high per-minute costs.⁴⁶

<u>Estimate of Evercom Costs</u>	<u>Low Estimate</u>	<u>High Estimate</u>
Average Number of Prisoners	1,743	1,743
Average Calling Per Prisoner Per Week	1.0 hr	1.5 hr
Calling Hours Per Week	1,743	2,615
Annual Minutes	5,438K	8,157K
<u>Operating Costs</u>		
Wholesale Long Distance and Termination ⁴⁷	\$ 136K	\$ 204K
Transport	\$ 14K	\$ 14K
Total Long Distance Costs	\$ 150K	\$ 218K

⁴⁶ Because of the unavoidable inefficiencies of serving extremely small facilities, this analysis may not apply to locally-administered jails and other low-capacity prison facilities.

⁴⁷ The estimated wholesale cost of long distance transmission and termination of 2.5 cents per minute was multiplied by the low and high annual estimated minutes to derive low and high annualized totals.

Depreciation ⁴⁸	\$ 69K	\$ 69K
Maintenance ⁴⁹	\$ 50K	\$ 50K
Billing ⁵⁰	\$ 111K	\$ 167K
Uncollectibles ⁵¹	\$ 334K	\$ 502K
Administration & Sales ⁵²	<u>\$ 130K</u>	<u>\$ 130K</u>
Total Expenses	\$ 844K	\$1,136K
Total Cost per Minute	\$ 0.155	\$ 0.139

69. This demonstrates that the total cost of providing long distance inmate calling service, before profit and taxes, is somewhere between 13.9 cents and 15.5 cents per minute. This is far below the revenues providers like Evercom collect for interstate calling, as discussed above.

70. From these total cost estimates, it is then possible to break out the cost of providing just the underlying inmate telephone system by eliminating the long distance and other

⁴⁸ As described in paragraph 58, depreciation is based on an average useful life for all equipment of 5.5 years. The equipment costs are as follows:

<u>Hardware</u>	
Switch	\$ 350K
Telephones	<u>\$ 28K</u>
Total Hardware	\$ 378K

(\$378,000/5.5 = \$69,000).

⁴⁹ As described in paragraph 59, maintenance is estimated at 13.2 percent of the total equipment costs.

⁵⁰ Billing costs are estimated to be 2.5 percent of billed revenues per paragraph 60. These amounts were calculated by assuming that average billing is 82 cents per minute for the assumed minutes multiplied by 2.5 percent.

⁵¹ As explained in paragraph 62, uncollectibles are calculated by taking 7.5 percent of total revenues, based on a composite revenue estimate of 82 cents per minute.

⁵² As explained in paragraph 63, general, administration and sales expenses are estimated by multiplying maintenance expenses by 2.6.

costs that could be avoided by a firm acting solely as the provider of the underlying system. For example, the actual cost of providing the long distance transmission -- both the network costs per minute and the transport -- would become the responsibility of each competing interconnecting IXC. Also, under the system described here, because the underlying system provider would bill its per-minute charge to the competitive interconnected IXC terminating each call, the underlying system provider would have no billing or uncollectibles costs. Moreover, because most calls would become prepaid debit calls under a competitive system, the cost of billing and uncollectibles would largely disappear in any event.⁵³ Eliminating the avoided costs, the costs of providing the underlying inmate telephone system for long distance service is as follows:

	<u>Low Estimate</u>	<u>High Estimate</u>
Total Expenses (from above)	\$ 844K	\$1,136K
<u>Less Avoided Costs</u>		
Less Long Distance Costs	\$ 150K	\$ 218K
Less Billing	\$ 111K	\$ 167K
Less Uncollectibles	<u>\$ 334K</u>	<u>\$ 502K</u>
Total Underlying System Costs	\$ 249K	\$ 249K
Underlying System Cost per Minute	<u>\$ 0.046</u>	<u>\$ 0.031</u>

This demonstrates a range of costs for the underlying system provider of 3.1 cents to 4.6 cents per minute. Note that the cost per minute decreases with a greater calling volume.

71. There are two possible categories of costs to add to these figures. First, it is reasonable to allow the underlying system provider to make a profit. In the wholesale long distance business, a reasonable profit for most carriers, after all costs, is roughly one cent per

⁵³ It should be noted that in the BOP inmate telephone system, 92 percent of the long distance calls are prepaid debit calls, and the rest are collect. Virginia Inmate Report at 14, attached hereto as Exhibit 8.

minute. This estimate of profit compares well with the profit estimated by the Coalition⁵⁴ and thus is a reasonable profit component. Along with profit comes the need to recognize the cost of income taxes. Evercom is a relatively young company and, as such, it has yet to pay any significant income taxes.⁵⁵ For other providers, however, and, eventually, for Evercom, there would be income taxes to be recovered. While taxes for most providers are theoretically as much as 40 percent (when using the maximum possible tax rate), most telecommunications carriers pay less than a full tax rate because of various tax loopholes and write-offs. A tax level of 25 percent is typical for the industry over the long run. Accordingly, assuming profit of one cent per minute, income taxes might eventually be around \$0.0025 per minute, or \$0.003 per minute, rounded off to the nearest tenth of a cent. Adding \$0.013 per minute for income taxes and profit, the reasonable rate for providing the underlying inmate telephone system is calculated to be between \$0.044 and \$0.059 per minute.

72. These calculated costs are comparable to the costs of providing inmate calling services as reflected in the Coalition Cost Analysis, which is attached hereto as Exhibit 12. That analysis shows a total cost, less commissions, of \$1.508 for a 12-minute local call, or \$0.126 per minute.⁵⁶ The basic costs for providing local inmate collect calls are very similar to the costs of providing long distance inmate collect calls. The difference between the two categories, from a cost perspective, is the difference between the cost of transport and termination of the long distance call and the local service charge for carrying the local call to the public telephone

⁵⁴ See Coalition Cost Analysis (showing profit of 8.2 cents on a 12 minute local inmate collect call), attached hereto as Exhibit 12.

⁵⁵ See, e.g., 10-K Report at Part II, Item 6 (income taxes for 2000 -- \$553,000 -- slightly above one quarter of one percent of total operating expenses of \$218,804,000), attached hereto as Exhibit 2.

⁵⁶ As explained above, commission payments to prisons are not a legitimate expense. The commissions cost of \$0.647 for a 12 minute local inmate call has therefore been removed from the Coalition's total cost estimate of \$2.155 in the Coalition Cost Analysis, attached hereto as Exhibit 12.

network. In the Coalition Cost Analysis, the Coalition indicates that the LEC service charges for carrying a 12-minute local inmate collect call to the public telephone network are \$0.243, or \$0.020 per minute.⁵⁷ In order to use the Coalition's data in an apples-to-apples comparison with the long distance inmate service cost calculations presented in this affidavit, the cost of the long distance transmission and termination plus the cost of transport to the long distance carrier must be substituted for the Coalition's local service charges. In the long distance cost calculations presented above, the costs of long distance transport and termination equate to about \$0.027 per minute.⁵⁸ Substituting that figure for the Coalition's local service charge in its cost analysis yields the following:

<u>Adjusted Coalition Costs</u>	12-Minute Call	1-Minute Call
Long Distance Costs (substituted for local costs)	\$0.324	\$0.027
Billing & Validation	\$0.350	\$0.029
Maintenance	\$0.090	\$0.008
Depreciation	\$0.110	\$0.009
Overheads	\$0.224	\$0.019
Profit	\$0.082	\$0.007
Uncollectibles	<u>\$0.410</u>	<u>\$0.034</u>
Total Cost	\$1.590	\$0.133

It should be noted that the Coalition's adjusted cost of \$0.133 per minute is even less than the lower estimate of the cost of inmate calling presented above, or \$0.139 per minute, which does not include profit or taxes. It must be assumed that, in light of the inmate calling service providers' interest in higher rates, the Coalition data does not understate the cost of providing

⁵⁷ Coalition Cost Analysis, attached hereto as Exhibit 12.

⁵⁸ Dividing the "low estimate" long distance costs of \$150,000 by the low annual traffic estimate of 5,438,000 minutes yields a per-minute cost of \$0.02758. Dividing the "high estimate" long distance costs of \$218,000 by the high annual traffic estimate of 8,157,000 minutes yields a per-minute cost of \$0.02672, for an overall estimate of slightly over \$0.027 per minute.

inmate telephone service. Because the adjusted Coalition-based data results in a lower cost estimate than the low estimate calculated above from Evercom data, the cost of providing the underlying inmate telephone system is likely to be at the low end of the range of costs calculated above, if not even lower. Moreover, the cost analysis presented here allows the underlying provider a greater profit per minute than is claimed in the Coalition figures, further confirming that the cost estimates presented here might overstate, but certainly do not understate, the costs of inmate calling.

73. In order to compare the adjusted Coalition estimate to the estimated cost of providing the underlying inmate telephone system presented above, it is necessary to remove the avoided costs of long distance, billing and the uncollectibles to arrive at the cost of the underlying system, as follows:

	12-minute Call	Per Minute
Adjusted Coalition Total Costs	\$1.590	\$0.133
<u>Less Avoided Costs</u>		
Long Distance Costs	\$0.324	\$0.027
Billing & Validation	\$0.350	\$0.029
Uncollectibles	<u>\$0.410</u>	<u>\$0.034</u>
Underlying System Costs	\$0.506	\$0.043

The adjusted Coalition data demonstrates a cost of \$0.506 for a 12-minute call, or \$0.043 per minute. This is even lower than the low end of the estimates of the cost of providing the underlying system presented above, which range between \$0.044 and \$0.059 per minute, thereby confirming the conservative nature of the cost calculations presented here.

74. Finally, As explained previously, the estimates of the total cost of providing inmate long distance calling service presented above -- \$0.139 to \$0.155 per minute before profit and taxes -- are a composite of debit and collect calling costs. As also explained above, billing costs and uncollectibles virtually disappear in the case of debit account or debit card calling.

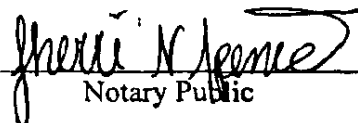
Because billing costs and uncollectibles account for such a large portion of the total cost of providing inmate long distance calling service, debit calling could be provided much more cheaply than collect calling. Removing billing and uncollectibles costs from the composite total cost estimates reduces them by over six cents per minute, which is a tremendous proportion of the total cost of providing inmate long distance debit and collect services. Thus, long distance inmate debit calling could be provided at much lower rates than long distance inmate collect calling service.

75. Taken together, the analysis presented here and the comparison with the Coalition's data demonstrate that there exists a reasonable range of rates at which an inmate telephone system provider could operate an inmate calling system, make a reasonable profit and still leave room for multiple interconnecting long distance carriers to compete for inmate long distance calling. The range of estimates reflects the economies of scale in providing prison inmate calling and the different possible methods of calculating costs. These estimates demonstrate that a competitive prison inmate calling system of the type described in this affidavit is technologically and economically feasible and would result in much more affordable calling for prisoners. Moreover, as explained in Part VI above, such a system would meet all legitimate security, anti-fraud and other penological goals.


DOUGLAS A. DAWSON

STATE OF *Maryland*
CITY OF *Maryland*

Sworn to before me this 29th day of October, 2003.


Notary Public

SHERRI N. SPENCE
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires August 14, 2007

EXHIBIT 3

September 13, 1999

Paul C. Besozzi
(202) 457-5292
pbsozzi@pattonboggs.com

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Evercom Systems, Inc. – Revised FCC Tariff No. 1

Dear Ms. Salas:

In accordance with Sections 61.21 and 61.23 of the Commission's Rules, enclosed is a diskette containing revised FCC Tariff No. 1 of Evercom Systems, Inc. Similar diskettes are simultaneously being provided to the Chief, Tariff Review Branch and the Commission's commercial contractor, in accordance with Section 61.21 of the Commission's Rules. The requisite filing fee of \$630.00 and an accompanying FCC Form 159 are being filed in accordance with Section 61.21(a) of the Commission's Rules on this date.

Should there be any questions on this matter, please contact the undersigned counsel.

Sincerely yours,

Paul C. Besozzi
PCB/lyt

Enclosure

cc: Mike Smith

INTERSTATE SWITCHED TELECOMMUNICATIONS SERVICE

REGULATIONS AND SCHEDULES OF CHARGES

APPLICABLE TO SERVICES FURNISHED

BY

EVERCOM SYSTEMS, INC.

This tariff includes the rates, charges, terms and conditions of service for the provision of interstate telecommunications services provided by EVERCOM SYSTEMS, INC. ("Company") between points within the United States.

This tariff cancels and replaces in its entirety Tariff FCC No. 1 previously issued by Saratoga Telephone Company effective November 17, 1998.

ISSUED: September 13, 1999

EFFECTIVE: September 14, 1999

BY: Mike Smith, Manager of Regulatory Affairs
8201 Tristar Drive
Irving, Texas 75063

SECTION 3 - SERVICE DESCRIPTION AND RATES, (CONT'D.)**3.4 Debit Services, (cont'd.)****3.4.1 Debit Services Rates**

Rates listed below are applicable to the Company's Debit Card Service and Inmate-only Debit Account Service. For billing purposes, call timing is rounded up to the next full minute increment after a minimum initial period of one (1) minute. No time of day, holiday or volume discounts apply. The Per Minute rates listed below are inclusive of all applicable taxes.

PER MINUTE USAGE CHARGE: \$0.65

3.4.2 Debit Services Sponsor Program

A Sponsor Program is offered to organizations or the Company commercial entities for distribution of Company's Debit Cards to their members or patrons. The marketing vehicle and expiration period is selected by the Sponsor upon joint agreement between the Carrier and the Sponsor. The Sponsor is responsible for name, service mark or other image on the card. The carrier reserves the right to approve or reject any image and to specify the customer information language and use of the Carrier's trade mark, trade name, service mark or other image on the card. The Sponsor may distribute the Carrier's debit card accounts at reduced rates or free of charge to end users for promotional purposes. At the option of the Sponsor, these cards may not be renewed. Debit Cards and/or Accounts issued through a Sponsor Program may not be used in conjunction with Debit Account services provided to inmates of confinement institutions.

ISSUED: September 13, 1999

EFFECTIVE: September 14, 1999

BY: Mike Smith, Manager of Regulatory Affairs
8201 Tristar Drive
Irving, Texas 75063

SECTION 3 - SERVICE DESCRIPTION AND RATES, (CONT'D.)**3.5 Operator Service**

Operator service consists of the provision of automated operator assistance in completing and arranging billing for calls, and the transmission of such operator-assisted calls through the resale of transmission services of other carriers. The service is provided by means of a microprocessor located inside a pay telephone, which uses recorded or simulated voice prompts to guide the Customer through the process of completing a collect, credit card, or third number billed call. The microprocessor responds to the Customer's voice or input of information by automatically processing and transmitting the information as necessary to establish a valid billing procedure for the call and to complete the call.

PER MINUTE RATES		
DAY	EVENING	NIGHT/WKND
\$0.59	\$0.59	\$0.59

Service charge \$3.95 per call.

ISSUED: September 13, 1999

EFFECTIVE: September 14, 1999

BY: Mike Smith, Manager of Regulatory Affairs
8201 Tristar Drive
Irving, Texas 75063



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>
Unofficial

TARIFF TRANSMITTAL PUBLIC REFERENCE LOG

This is an unofficial list of tariff filings (and related information) received by the Consumer Information Bureau, Reference Information Center (RIC) and is available for public inspection and copying along with the transmittals in the Reference Information Center, Room CY-A257, Courtyard Level. This Log is also available on the Commission's Internet site at http://www.fcc.gov/Bureaus/Common_Carrier/Public_Notices/Tariffs/combined. This list is prepared for staff use and released for the convenience of the public. The Commission does not guarantee the completeness or accuracy of this list. Any questions should be referred to the Reference Information Center at (202) 418-0270.

NOTES

PUBLIC REFERENCE LOG:06/28/2000

Dominant

ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/27/2000	BELL ATLANTIC NETWORK SERVICES	1	1307	1	07/01/2000		1	4	0	0	0	ENG		
11														
SYNOPSIS														
Revises material filed under Transmittal No. 1304, its 2000 Annual Filing.														
PUS: ENG and JWJL														

Non Dominant

ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/26/2000	ALASCOM	1	1145	10	06/27/2000	1			0	0	0	RLS		
SYNOPSIS														
ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/26/2000	ALASCOM	1	1145	10	07/01/2000	1			0	0	0	RLS		
SYNOPSIS														

PUBLIC REFERENCE LOG:06/28/2000

Non Dominant

ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/26/2000	AT&T	1	11634	1	06/27/2000	1			0	0	0	RLS		
				5										
				11										
				13										

SYNOPSIS

ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/26/2000	AT&T	1	ICT-7887	ICT-11539	06/27/2000	1			0	0	0	RLS		93-88
				ICT-12504										
				ICT-12585										
				ICT-13472										
				ICT14051-1405										

SYNOPSIS

ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/23/2000	BELL ATLANTIC NETWORK DATA, INC.	1	2	1	06/27/2000	1			0	0	0	LJB		

SYNOPSIS

PUBLIC REFERENCE LOG:06/28/2000

Non Dominant

ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/26/2000	EVERCOM SYSTEMS, INC.	1	1	1	06/27/2000	1			0	0	0	LJB		
SYNOPSIS														
Cancels tariff pursuant to the Commission's Mandatory Detariffing requirements.														
ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/26/2000	GE AMERICAN COMMUNICATIONS	1	284	3	07/01/2000	1			0	0	0	LJB		
SYNOPSIS														
ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/26/2000	INTEGRA TELECOM HOLDING, INC.	1	3	3	06/27/2000	1			0	0	0	LJB		
SYNOPSIS														
ISSUED	CARRIER	FILING #	TRANS #	FCC #	EFF DATE	# DISKS	# CDS	# PAGES	NTC	61.38	61.49	PUS	PET DUE	S. P. #
06/27/2000	NATIONAL TELEMAGEMENT CORP	1	2	1	06/28/2000	1			0	0	0	LJB		
SYNOPSIS														

EXHIBIT 4

Evercom Systems, Inc.

Pricelist for Interstate Switched Telecommunications Service

Per Minute Rates

Day	\$0.89
Evenings	\$0.89
Night/Weekends	\$0.89

Service Charge Per Call

Day	\$3.95
Evenings	\$3.95
Night/Weekends	\$3.95

EXHIBIT 5

ITEMIZED CALLS

NO.	DATE	TIME	TO PLACE	TO AREA	NUMBER	TYPE	MINUTES	AMOUNT
1	MAY 01		EVERCOM SYSTEMS, INC.					
			COLLECT FROM BURLIN CO	AZ	719 346-9451	F	15	9.75
2	MAY 01		COLLECT FROM BURLIN CO	AZ	719 346-9451	G	1	3.45
			SUBTOTAL				13.20	

MISCELLANEOUS CHARGES AND CREDITS

NO.	DATE	ITEM	TAX CODE	AMOUNT

CORRECTIONAL BILLING SVCS SUBTOTAL OF ITEMIZED CALLS

TAX SUMMARY

FEDERAL EXCISE TAX CORRECTIONAL BILLING SVCS SUBTOTAL OF TAXES
CORRECTIONAL BILLING SVCS CURRENT CHARGES

Type of Long Distance Calls:
F - Day Station - Operator or Calling Card Rate
G - Evening Station - Operator or Calling Card - Discount Rate

Tax Code Explanation:
09 - Tax Exempt Including Surcharge

THIS PORTION OF YOUR BILL IS PROVIDED AS A SERVICE TO
CORRECTIONAL BILLING SVCS. THERE IS NO CONNECTION BETWEEN
CORRECTIONAL BILLING SVCS AND QWEST.

ride the light
Qwest

Visit us 24 hours a day at www.qwest.com

Total Amount Due

Due Date for New Charges

June 8, 2002

Summary

▼ Previous Balance

Charges

Adjustments

Payment

Balance Forward

Thank you for your payment

▼ New Charges

Qwest

For questions call 1-800-244-1111

Qwest Wireless

For questions call 1-877-879-0611

Total Qwest New Charges

MCI WorldCom

For questions call 1-800-517-2639

EXCEL Telecom, Inc

For questions call 1-800-875-9235

Correctional Billing Svcs

For questions call 1-800-844-6591

Total New Charges

TOTAL AMOUNT DUE

NATIONAL DIRECTORY ASSISTANCE - Just dial 411 to search by name or
number. No area code needed! Per call charge applies.

Qwest, PO Box 29013, Phoenix, AZ 85038-9013

This bill is protected by one or more of the following U.S. Patents:
Den. 385,296; 390,599; 5,845,942; and 5,951,052.

Account NO: [REDACTED]
 For questions, call 1-800-844-6591
 www.evercom.net

Page 6

ITEMIZED CALLS

NO.	DATE	TIME	TO PLACE	TO AREA	NUMBER	TYPE	MINUTES	AMOUNT
THE FOLLOWING TRANSACTION IS BILLED ON BEHALF OF:								
EVERCOM SYSTEMS, INC.								
1	FEB 22		COLLECT FROM BURLIN CO	AZ	719 346-9451	H	15	9.75
2	FEB 27		COLLECT FROM BURLIN CO	AZ	719 346-9451	F	15	9.75
3	MAR 13		COLLECT FROM BURLIN CO	AZ	719 346-9451	G	15	9.75
			SUBTOTAL				29.25	

MISCELLANEOUS CHARGES AND CREDITS

NO.	DATE	ITEM	TAX CODE	AMOUNT

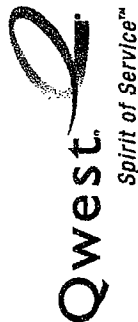
CORRECTIONAL BILLING SVCS SUBTOTAL OF ITEMIZED CALLS

TAX SUMMARY

FEDERAL EXCISE TAX	
CORRECTIONAL BILLING SVCS SUBTOTAL OF TAXES	
CORRECTIONAL BILLING SVCS CURRENT CHARGES	

Type of Long Distance Calls:
 F - Day Station - Operator or Calling Card Rate
 G - Evening Station - Operator or Calling Card - Discount Rate
 H - Night Station - Operator or Calling Card - Discount Rate

THIS PORTION OF YOUR BILL IS PROVIDED AS A SERVICE TO
 CORRECTIONAL BILLING SVCS. THERE IS NO CONNECTION BETWEEN
 CORRECTIONAL BILLING SVCS AND QWEST.



Visit us 24 hours a day at www.qwest.com

Total Amount Due	Due Date for New Charges
[REDACTED]	April 10, 2003

Summary

▼ Previous Balance

Charges
Payment

Balance Forward

Thank you for your payment

▼ New Charges

Qwest

For questions call 1-800-244-1111

Qwest Wireless

For questions call 1-877-879-0611

Total Qwest New Charges

MCI WorldCom

For questions call 1-800-517-2639

Correctional Billing Svcs

For questions call 1-800-844-6591

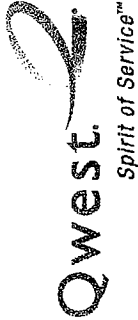
Total New Charges

TOTAL AMOUNT DUE

Directory Assistance calls will be \$1.15 per call effective April 1, 2003. One
 free call allowance is offered each month and exemptions remain for certified
 special needs customers.

Qwest, PO Box 29060, Phoenix, AZ 85038-9060

This bill is protected by one or more of the following U.S. Patents:
 Des. 385,288; 3,905,599; 5,845,942; and 5,951,052.



visit us 24 hours a day at www.qwest.com

Page 6

ITEMIZED CALLS

NO.	DATE	TIME	TO PLACE	TO AREA	NUMBER	TYPE	MINUTES	AMOUNT
THE FOLLOWING TRANSACTION IS BILLED ON BEHALF OF:								
1	MAR 28		EVERCOM SYSTEMS INC.					
2	MAR 28		COLLECT FROM BURLIN CO	AZ	719 346-9451	F	15	9.75
3	MAR 28		COLLECT FROM BURLIN CO	AZ	719 346-9451	F	15	9.75
			COLLECT FROM BURLIN CO	AZ	719 346-9451	F	15	9.75
			SUBTOTAL				29.25	

TAX SUMMARY
CORRECTIONAL BILLING SVCS SUBTOTAL OF ITEMIZED CALLS \$29.25

FEDERAL EXCISE TAX

CORRECTIONAL BILLING SVCS SUBTOTAL OF TAXES .88
CORRECTIONAL BILLING SVCS CURRENT CHARGES \$30.13

Type of Long Distance Calls:

P-Day Station - Operator or Calling Card Rate

THIS PORTION OF YOUR BILL IS PROVIDED AS A SERVICE TO
CORRECTIONAL BILLING SVCS. THERE IS NO CONNECTION BETWEEN
CORRECTIONAL BILLING SVCS AND QWEST.

Total Amount Due	Due Date for New Charges
[REDACTED]	Upon Receipt

Summary

[REDACTED]

Thank you for your payment

▼ Previous Balance
Charges
Payment
Balance Forward

▼ New Charges

Qwest
For questions call 1-800-244-1111
Qwest Wireless
For questions call 1-877-879-0611
MCI WorldCom
For questions call 1-800-517-2639
Correctional Billing Svcs
For questions call 1-800-844-6591
Total New Charges

TOTAL AMOUNT DUE

30.13

Thank you for choosing Qwest. On April 1, 2003 the Federal Universal Service Fee(s) on your Qwest bill will change. The monthly fee is a percentage of billed interstate service charges as set by the FCC. The rate can change quarterly and is currently 9.1%.

EXHIBIT 6

Correctional Billing Serv charges**Call 1-800-844-6591 for billing inquiries**

Sprint provides billing on behalf of Correctional Billing Serv
There is no connection between Sprint and Correctional Billing Serv
Please review all charges appearing in this section. Any question
regarding these charges should be referred to the number provided
for billing inquiries.

Summary of Correctional Billing Serv charges**Charges billed on behalf of Evercom Systems, Inc.
Call 1-800-844-6591 for billing inquiries****Long Distance services**

Direct dial charges

Total Evercom Systems, Inc. charges**Taxes**

Federal tax

State tax

Total Correctional Billing Serv charges**Evercom Systems, Inc. itemized calls****Direct dial itemized calls**

	Date	Time	Place called	Number called	Period	Minutes	Amount
2	Oct 15		MN				
			from BURLINGTON, CO	719-346-9451	Evening Operator assist	15.0	17.30
Total direct dial charges							\$17.30

Correctional Billing Serv charges**Call 1-800-844-6591 for billing inquiries**

*Sprint provides billing on behalf of Correctional Billing Serv
There is no connection between Sprint and Correctional Billing Serv
Please review all charges appearing in this section. Any questions
regarding these charges should be referred to the number provided
for billing inquiries.*

Summary of Correctional Billing Serv charges**Charges billed on behalf of Evercom Systems, Inc.
Call 1-800-844-6591 for billing inquiries****Long Distance services**

Direct dial charges

Miscellaneous charges

NOV FED UNIV SVC FND CHG: Nov 21

Total Evercom Systems, Inc. charges**Taxes**

Federal tax

State tax

Total Correctional Billing Serv charges**Evercom Systems, Inc. itemized calls****Direct dial itemized calls**

	Date	Time	Place called	Number called	Period	Minutes	Amount
1	Nov 19		MN		Evening	15.0	17.30
		from	BURLINGTON, CO	719-346-9451	Operator assist		
2	Nov 22		MN		Night/Weekend	15.0	17.30
		from	BURLINGTON, CO	719-346-9451	Operator assist		
3	Dec 10		MN		Evening	15.0	17.30
		from	BURLINGTON, CO	719-346-9451	Operator assist		
Total direct dial charges							\$51.90

**Correctional Billing Serv charges****Call 1-800-844-6591 for billing inquiries**

Sprint provides billing on behalf of Correctional Billing Serv.
There is no connection between Sprint and Correctional Billing Serv.
Please review all charges appearing in this section. Any question
regarding these charges should be referred to the number provided
for billing inquiries.

Summary of Correctional Billing Serv charges**Charges billed on behalf of Evercom Systems, Inc.****Call 1-800-844-6591 for billing inquiries****Long Distance services**

Direct dial charges

Miscellaneous charges

DEC FED UNIV SVC FND CHG: Dec 23

Total Evercom Systems, Inc. charges**Taxes**

Federal tax

State tax

Total Correctional Billing Serv charges**Evercom Systems, Inc. itemized calls****Direct dial itemized calls**

	Date	Time	Place called	Number called	Period	Minutes	Amount
1	Dec 27		, MN		Night/Weekend	15.0	17.30
		from	BURLINGTON, CO	719-346-9451	Operator assist		
2	Jan 7		, MN		Evening	15.0	17.30
		from	BURLINGTON, CO	719-346-9451	Operator assist		
3	Jan 15		, MN		Evening	15.0	17.30
		from	BURLINGTON, CO	719-346-9451	Operator assist		
Total direct dial charges							\$51.90

EXHIBIT 7

Your AT&T Statement

May 30-June 29, 2003



Customer ID: [REDACTED]

Page 1 of 6

Customer Service: 1 800 222-0300

Text Phone (TTY): 1 800 833-3232

Internet Address: www.att.com

Summary of charges

Previous balance	[REDACTED]
Payment received Jun 23 - Thank you.....	[REDACTED]
Charges for other services	p 4 [REDACTED]
AT&T One Rate® Plan calls.....	p 4 [REDACTED]
AT&T Correctional Value Plan calls.....	p 4 234.47
AT&T Easy Reach SM 800 Service calls	p 5 [REDACTED]
Other charges and credits	p 5 [REDACTED]
Taxes and surcharges	p 6 [REDACTED]
Total amount due	[REDACTED]
Date due	July 24, 2003



Extra! Extra!

Choose AT&T Local Service.
Then Relax. Continued▶

Your savings and benefits

Your AT&T savings	
This month you saved.....	[REDACTED]
Over the last 3 months you saved.....	[REDACTED]
Savings are compared to AT&T standard rates.	



With you in mind

Support our troops. Your donations to the USO and AAFES will help our men and women in uniform while they serve our country. Continued▶

Visit "Understanding your AT&T Phone Bill" for fast answers to all of your billing questions. Go to www.consumer.att.com/bill. Continued▶

Continues on back

Customer Service: 1 800 222-0300
Text Phone (TTY): 1 800 833-3232
Internet Address: www.att.com

May 30-Jun 29, 2003
Customer ID [REDACTED]
Page 4 of 6

Charges for other services

Monthly service from Jun 29 - Jul 28, 2003

Description	Amount
1 AT&T Correctional Value Plan monthly fee Jun 29 - Jul 28, 2003	5.00
	\$5.00

AT&T One Rate® Plan calls

Description	Amount
Direct dialed calls	[REDACTED]
Total AT&T One Rate® Plan calls	[REDACTED]

Direct dialed calls

Date	Number called	Where	Time	Rate	Type	Min	Amount
------	---------------	-------	------	------	------	-----	--------

AT&T Correctional Value Plan calls

Description	Amount
Calls eligible for discount at 15% on \$275.85	234.47

Total AT&T Correctional Value Plan calls after savings.....\$234.47

This month you saved \$36.38 with AT&T Correctional Value Plan.

Calls eligible for discount

Operator assisted calls

Date	Number called	Where	Time	Rate	Type	Min	Amount
4 May 5	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
	Called from 580 928-8804	PAYPHONE, OK					
5 May 25	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
	Called from 580 928-8804	PAYPHONE, OK					
6 May 25	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
	Called from 580 928-8804	PAYPHONE, OK					
7 May 30	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
	Called from 580 928-8804	PAYPHONE, OK					
8 May 30	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	22	23.53
	Called from 580 928-8804	PAYPHONE, OK					
	Call continued at next rate						
9 May 30	[REDACTED]	[REDACTED], WI	[REDACTED]	night	stacoll	8	7.12
	Called from 580 928-8804	PAYPHONE, OK					
	Call continued from previous rate						

Customer Service: 1 800 222-0300
Text Phone (TTY): 1 800 833-3232
Internet Address: www.att.com

May 30-Jun 29, 2003

Page 5 of 6



Calls eligible for discount

Operator assisted calls

	Date	Number called	Where	Time	Rate	Type	Min	Amount
10	Jun 2	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
		Called from 580 928-8801	PAYPHONE,OK					
11	Jun 3	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
		Called from 580 928-8801	PAYPHONE,OK					
12	Jun 9	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
		Called from 580 928-8804	PAYPHONE,OK					
13	Jun 19	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
		Called from 580 928-8801	PAYPHONE,OK					
								270 \$275.85

AT&T Easy ReachSM 800 Service calls

Description	Amount
-------------	--------

Total AT&T Easy Reach SM 800 Service calls	[REDACTED]
---	------------

Easy Reach: 800 470-2293

Domestic calls

Date	Called from	Where	Time	Rate	Min	Amount
------	-------------	-------	------	------	-----	--------

Other charges and credits

Date	Description	Amount
------	-------------	--------

[REDACTED]	PAYPHONE - Recovers a payphone usage fee imposed upon AT&T. (10 calls in total)	[REDACTED]
------------	--	------------

[REDACTED]	Universal connectivity charge For an explanation of this charge, please call 1 800 532-2021 or visit http://www.consumer.att.com/connectivity_charge	[REDACTED]
------------	---	------------

[REDACTED]	AT&T One Rate [®] Plan Service charge at \$.35 per call	[REDACTED]
------------	---	------------

Continues on back

Your AT&T Statement

June 30–July 29, 2003



Customer ID: [REDACTED]

Page 1 of 7

Customer Service: 1 800 222-0300

Text Phone (TTY): 1 800 833-3232

Internet Address: www.att.com

Summary of charges

Previous balance	[REDACTED]
Payment received Jul 26 - Thank you	[REDACTED]
Charges for other services	p 4 [REDACTED]
AT&T One Rate SM Plan calls	p 4 [REDACTED]
AT&T Correctional Value Plan calls	p 4 166.48
AT&T Easy Reach SM 800 Service	p 5 [REDACTED]
Other charges and credits	p 5 [REDACTED]
Taxes and surcharges	p 5 [REDACTED]
Total amount due	[REDACTED]
Rate due	August 23, 2003



Extra! Extra!

Choose AT&T Local Service.

Then relax. Continued ▶

Your savings and benefits

Your AT&T savings
This month you saved..... [REDACTED]
Over the last 3 months you saved..... [REDACTED]
Savings are compared to AT&T standard rates.



With you in mind

Visit "Understanding your AT&T
Phone Bill" for fast answers to all
of your billing questions. Go to
www.consumer.att.com/bill.
Continued ▶

Have fun in the sun while staying
connected with the latest in
cordless technology from AT&T.
Continued ▶

Continues on back

Customer Service: 1 800 222-0300
Text Phone (TTY): 1 800 833-3232
Internet Address: www.att.com

Jun 30-Jul 29, 2003
Customer [REDACTED]
Page 4 of 7

Charges for other services

Monthly service from Jul 29 - Aug 28, 2003

Description	Amount
1 AT&T Correctional Value Plan monthly fee Jul 29 - Aug 28, 2003	5.00
	\$5.00

AT&T One Rate[®] Plan calls

Description	Amount
Direct dialed calls	[REDACTED]

Total AT&T One Rate[®] Plan calls [REDACTED]

Direct dialed calls

Date	Number called	Where	Time	Rate	Type	Min	Amount
------	---------------	-------	------	------	------	-----	--------

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
------------	------------	------------	------------	------------	------------	------------	------------

AT&T Correctional Value Plan calls

Description	Amount
Calls eligible for discount at 15% on \$195.86	166.48

Total AT&T Correctional Value Plan calls after savings \$166.48

This month you saved \$24.38 with AT&T Correctional Value Plan.

Calls eligible for discount

Operator assisted calls

	Date	Number called	Where	Time	Rate	Type	Min	Amount
5	Jun 22	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.85
		Called from 580 928-8804	PAYPHONE, OK					
6	Jul 1	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
		Called from 580 928-8801	PAYPHONE, OK					
7	Jul 6	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
		Called from 580 928-8804	PAYPHONE, OK					
8	Jul 18	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
		Called from 580 928-8804	PAYPHONE, OK					
9	Jul 20	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
		Called from 580 928-8801	PAYPHONE, OK					
10	Jul 25	[REDACTED]	[REDACTED], WI	[REDACTED]	eve	stacoll	30	30.65
		Called from 580 928-8801	PAYPHONE, OK					

Customer Service: 1 800 222-0300
Text Phone (TTY): 1 800 833-3232
Internet Address: www.att.com

Jun 30-Jul 29, 2003
Customer ID: [REDACTED]
Page 5 of 7



Calls eligible for discount

Operator assisted calls

Date	Number called	Where	Time	Rate	Type	Min	Amount
11 Jul 26	[REDACTED]	[REDACTED] WI	[REDACTED]	night	stacoll	9	11.96
Called from 580 928-8905 PAYPHONE, OK							
							189 \$195.86

AT&T Easy ReachSM 800 Service

There was no activity on your AT&T Easy ReachSM 800 Service this month. Your personal 800 number is the easiest, most convenient way to keep in touch with the people who matter most to you.

Other charges and credits

Date	Description	Amount
12	PAYPHONE - Recovers a payphone usage fee imposed upon AT&T. (7 calls in total)	[REDACTED]
13	Universal connectivity charge For an explanation of this charge, please call 1 800 532-2021 or visit http://www.consumer.att.com/connectivity_charge	[REDACTED]
14	AT&T One Rate SM Plan Service charge at \$.35 per call	[REDACTED]

Taxes and surcharges

Description	Amount
Federal tax	[REDACTED]
Local tax	[REDACTED]
State tax	[REDACTED]

Important information about your telephone service

The Federal Trade Commission's National Do Not Call Registry is now available for consumer sign up. For more information and to register your home telephone number, you can visit the FTC's website at www.donotcall.gov or call toll-free from your home telephone at 1-888-382-1222. The Do Not Call Registry goes into effect on October 1, 2003 for consumer numbers signed up by August 31, 2003.

Beginning on or after July 1, 2003, your bill will include a 99 cent per month Regulatory Assessment Fee. This fee will help AT&T recover the following costs: interstate access charges; regulatory compliance and proceedings costs and property taxes. This fee applies for each

Continues on back

EXHIBIT 8

01/22/2003 - 04/14/2003 00:00 - 23:59

From	To	Date	Time	Dur	Charge	Pin	Result	
4A-3	253 [REDACTED]	01/24/2003	[REDACTED]	4:08	4.05	[REDACTED]	Funds Expired	Del
4A-1	253 [REDACTED]	03/01/2003	[REDACTED]	20:07	11.25	[REDACTED]	Timeup	Del
2 Call(s)				24:15	15.30			

Phone Company = Evercom

Crowley County Correctional Facility, Owner = C.C.A.
6564 St. Hwy 96
Diney Springs, Co. 81062-8700

[REDACTED]

Debit calls out of state.

[REDACTED]

EXHIBIT 9

U.S. Department of Justice
Federal Bureau of Prisons

Central Office

Washington, DC

February 8, 2002

MEMORANDUM FOR ALL INSTITUTION CONTROLLERS
ALL TRUST FUND SUPERVISORS

FROM: Michael A. Atwood, Chief
Trust Fund Branch

SUBJECT: Commissary and Telephone Rate Increases
Trust Fund Message Number: 18-02

Effective March 1, 2002, a number of changes will take effect in the Trust Fund Program which will directly impact the inmate population at your institution. The information provided below is meant to assist you and your staff in preparing for these changes.

Commissary: An approximate increase of 5% in the markup of all general items sold in the Commissary, excluding stamps and religious items, will go into effect. Products containing tobacco (cigarettes, cigars, and smokeless tobacco) will be increased by approximately 15%. The markup for Special Purpose Orders will remain unchanged.

In addition to changing the markup for items, the method for determining the selling price of an item will change. Although this will not further affect the price of the items, it will bring the Bureau in line with the industry standard's formula for calculating the mark-up on cost for items sold. Currently, the cost price of an item is divided by 0.8 to determine the selling price. Effective at the time of the increased markup, the cost price will be multiplied by 1.3 (1.4 for tobacco products). The requirement to round up to the next highest nickel, if necessary, will continue.

Validation: In order to offset the potential reduction in inmate purchasing power due to the markup increase, the inmate monthly Spending Limit will be increased from \$275 per month to \$290 per

month. This increase will become effective on the inmate's regularly scheduled validation date during the month of March.

Step-by-step instructions for changes that are to be made within the FPPOS System are attached. Instructions for TRUFACS will be provided under a separate memorandum to the applicable institutions. Please remember that no sales may be conducted during this time. The expected time frame to allow for changes to be completed is approximately 3.5 to 4 hours.

ITS-II: New telephone rates will also take effect the morning of March 1, 2002. The voice prompts that provide the collect rates will be changed at that time. Staff will not have to take any action to effect the rate increase or the voice prompt changes.

The new rates are as follows:

	<u>Current Rates</u>	<u>New Rates</u>
Local	\$0.04	\$0.05
Long Distance	\$0.15	\$0.17
Canada	\$0.25	\$0.30
Mexico	\$0.47	\$0.50
International	\$0.85	\$0.99
Collect (10 minute call)	\$5.45	\$6.95

If you have any questions concerning this information or the instructions that are attached, please call me or Teresa La Forgia, Deputy Chief, Trust Fund Branch (202) 307-3144.

Attachment

CC: Robert J. Newport, Senior Deputy Assistant Director
Administration Division
All Regional Comptrollers

EXHIBIT 10

U.S. Department of Justice
Federal Bureau of Prisons

Central Office

Washington, DC

September 27, 2002

MEMORANDUM FOR ALL REGIONAL DIRECTORS

FROM: /s/ (Robert J. Newport for)
Bruce K. Sasser
Assistant Director
for Administration

SUBJECT: ITS Rate Increase Talking Points

At the recent Executive Staff meeting, a decision was made to increase the Inmate Telephone System (ITS) rates effective March 1, 2003. It was also decided to increase the monthly limit on inmate telephone calls to 400 minutes for the months of November and December.

Attached are a set of talking points for your use and your Wardens' use in discussing with inmates the planned ITS changes. If you have any questions, please contact me at (202) 307-3230.

CC: Kathleen Hawk Sawyer, Director
All Assistant Directors

Telephone Minutes and Rate Increases

- ① In order to allow inmates greater access via the telephone to contact their family and friends during the holiday season, the 300 minute a month limit on telephone time will be raised to 400 minutes for the months of November and December.
- ② In order to maintain the financial integrity of the inmate Trust Fund Program, the Bureau's ITS per minute rates will be increased March 1, 2003. Please note there is no increase in the international rate at this time, as it was felt the amount charged is appropriate for the services provided. The new rates are as follows:

	<u>Current</u>	<u>New</u>
Local	\$.05	\$.06
Long Distance	\$.17	\$.20
Canada	\$.30	\$.35
Mexico	\$.50	\$.59
International	\$.99	\$.99

- ③ The most recent telephone rate surveys, which compared the Bureau's ITS rates to the telephone rates in other correctional systems, indicate that the new Bureau rates will remain substantially lower. For example:

<u>Type of 10 Minute Call</u>	<u>BOP</u>	<u>Colorado</u>	<u>Iowa</u>
Local	\$.60	\$ 1.25	\$2.00
Long Distance	\$2.00	\$ 3.15	\$5.70
Canada	\$3.50	\$10.75	\$8.00
Mexico	\$5.90	\$19.50	\$9.30

Note: All of the funds generated from the ITS rate increases will go to the inmate Trust Fund to support Trust Fund Programs.

EXHIBIT 11



U.S. Department of Justice

Federal Bureau of Prisons

*Federal Correctional Institution - Gilmer
Glenville, West Virginia 26351*

July 2, 2004

MEMORANDUM FOR INMATE POPULATION

FROM:

A handwritten signature in black ink, appearing to be "W. Kern", is written over the printed name.

W. Kern, Trust Fund Supervisor

SUBJECT:

ITS Rate Increase

The Bureau's ITS direct dial long distance rate will increase from \$.20 per minute to \$.23 per minute effective July 6, 2004.

This modest increase is needed to ensure that adequate financial resources are available for the inmate Trust Fund Program given rising program costs. There will be no increase in the local, Canada, Mexico or international rates at this time.

If you have any questions, please contact Mr. Kern, Trust Fund Supervisor or Mr. Hofmann, Business Administrator.

EXHIBIT 12

07CAA

CONTRACT

THIS CONTRACT, made this 18th day of September 2006, by and between the State of Colorado for use and benefit of the Colorado Department of Corrections, State of Colorado, P. O. Box 1010, Canon City, Colorado, 81212, hereinafter "State or CDOC", and Value Added Communications, Inc., 3801 East Plano Parkway, Suite 100, Plano, Texas, 75074, hereinafter "Contractor" or "VACI".

RECITALS:

Pursuant to federal court order and Colorado Revised Statutes ("CRS") § 17-24-126 the state acts as trustee for the inmate trust fund through which all monies handled under this Contract are managed, and accordingly no State General fund dollars are expended or become obligated under this Contract; and

Since no state funds are obligated under this Contract it is exempt from the State's Procurement Code as well as the State's Fiscal Rules; and

Required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

The State desires that VACI provide Inmate Telephone Services ("ITS") for the term of this Contract; and

VACI desires to provide such services, subject to the terms conditions and provision of this Contract, and to derive all of its revenue under this Contract from charges made to inmates on a per-call basis; and

NOW, THEREFORE, it is hereby agreed that in consideration of the mutual covenants and agreements set forth and for other goods and variable consideration, the sufficiency of which is hereby acknowledged, the State and Contractor agree to the following terms and conditions.

9/18/06

1. **Statement of Work.** Contractor agrees to provide ITS services as follows, and as set out in the attached Exhibit A and Exhibit B which are hereby incorporated by reference into this Contract:

- 1.1. **Inmate Telephone Services.** Contractor agrees to provide the ITS by furnishing all work, labor and materials and performing all work required, for the complete and prompt execution of everything described or shown in the terms, conditions, specifications and provisions of this Contract.

- 1.2. **Inmate Telephone Service (ITS) for Expanded CDOC Facilities and Privately-Managed CDOC Facilities.** For any expanded CDOC or privately-managed facilities during the term of this Contract, Contractor agrees to bring those expanded facilities into compliance with this Contract as a fully functioning part of the ITS network.

- 1.3. **Permits, Licenses, Rates and Commissions.**

- 1.3.1. Contractor will, at its own expenses, obtain all necessary licenses to continue operating a communication company within Colorado under FCC and Colorado PUC guidelines, rules and regulations.

- 1.3.2. Contractor agrees to notify CDOC in writing within ten (10) days upon determining that it may be precluded by a change in Federal, State or local law or regulations from providing the ITS. Contractor further agrees that, in the event Contractor or any subcontractor is precluded by applicable law from continuing to provide the ITS, Contractor will reasonably assist CDOC in identifying another Contractor's system which provides substantially the same features and functionality as the Contractor-provided system; provided, however, CDOC shall make its own independent determination of whether another Contractor's system meets CDOC's requirements, and Contractor shall have no further liability in connection with rendering any such assistance to CDOC. Upon CDOC's selection of a replacement Contractor, at no cost to the State, Contractor will reasonably assist CDOC with the conversion from Contractor's system or services, without unnecessary interruption.

- 1.3.3. The Statement of Rates and Commissions, Section 4 below, sets forth the per minute rates and per call surcharges that called parties will be charged (in the case of collect calls) and calling parties (in the case of debit calls) will be charged under the Inmate Telephone Service. Section 4 also sets forth the commissions the Contractor shall pay the State as a result of providing the Services under this Contract. In the event of any law, order, rule, regulation or other mandate of any Federal, State, or local government agency enacted during the term of this Contract, including any extensions, including but not limited to any Colorado PUC rate caps or flat fee requirement, which requires Contractor to charge less than Section 4 would otherwise entitle Contractor to charge users of the ITS, then the Parties will negotiate in good faith an equitable downward adjustment to the commissions payable by Contractor for the ITS, as well as any other affected terms, conditions or provisions of this Contract.

11/2/16

1.4 Performance Bond. Within ten (10) days after the Effective Date of this Contract, the Contractor shall provide to the State, at the Contractor's cost, a duly executed performance bond in the ~~penal~~ sum of Five Hundred Thousand Dollars (\$500,000), issued by a surety licensed to do business in the State of Colorado, and shall ~~maintain~~ such performance bond for the term of this Contract, including any extensions or renewals. Such bond shall include but not be limited to ~~payment~~ of all commissions owed to the CDOC by the Contractor but not paid due to Contractor's default.

2. Order of Precedence. The provisions of this contract shall govern the relationship of the State and Contractor. In the event of conflicts or inconsistencies between this contract and its exhibits or attachments, such conflicts of inconsistencies shall be resolved by reference to the following documents, incorporated into this contract, in the following order of priority:

- A. Colorado ~~Special~~ Provisions, contract pages 18 to 19.
- B. Remainder of this contract, page 1 to 17.
- C. Exhibit A – Statement of Work: Specifications
- D. Exhibit B – Option Letter

3. Term. This contract shall become effective on November 1, 2006 (the "Effective Date") and shall terminate on October 31, 2008, unless sooner ~~terminated~~ by its terms or extended per the renewal provision herein.

3.1 The State may require continued performance for a period of two (2) one (1) year options each, for any services at the terms specified in this contract. The State may exercise its option to annually renew the Contract by delivering to the Contractor a written notice, which shall be provided to the Contractor for the next ensuing renewal year, by written notice to Contractor with sixty (60) days prior to the end of the current contract term in a ~~form~~ substantially equivalent to Exhibit B. If the State exercises this option, the extended contract will be considered to include this option provision. The total duration of this contract, including the exercise of any options under this section, shall not exceed four (4) years.

3.2. Holdover. In the event that the state agency desires to continue the services and a replacement contract has not been fully executed by the ending term date of this ~~contract~~, this contract may be extended unilaterally by the state for a period of up to two months upon written notice to Contractor under the same terms and conditions of the original contract including, but not limited to commissions, rates, and service delivery requirements. However, this extension terminates when the replacement contract becomes effective.

4. Payment and Rates.

4.1 RATES AND CHARGES: Per minute rates and per call charges for Local, Intra-lata, ~~Intra-state~~ ~~Inter-lata~~ and Inter-state collect and debit calls, are set forth below. These rates and charges are ~~fixed~~ for the ~~term~~ of the Contract, including any extensions or ~~renewals~~, unless

otherwise agreed by the parties. International rates are subject to change and are not set by this contract.

ITS COLLECT CALLS		
COLLECT CALL TYPE	PER CALL CHARGE	RATE PER MINUTE
Local	\$2.46	none
Intra-Lata	\$2.11	\$0.15 All Times
Intra-State Inter-Lata	\$3.00	\$0.24 All Times
Inter-State	\$3.95	\$0.89 All Times
ITS DEBIT CALLS		
DEBIT CALL TYPE	PER CALL CHARGE	RATE PER MINUTE
Local	\$1.25	none
Intra-Lata	\$1.00	\$0.15 All Times
Intra-State Inter-Lata	\$1.25	\$0.19 All Times
Inter-State	\$1.25	\$0.19 All Times

4.2. COMMISSIONS AND PAYMENT:

4.2.1. Commissions on ITS Calls: The CDOC shall collect the revenue from the inmates for calls made on behalf of the Contractor and for payment to the Contractor. Contractor shall be obligated to pay to CDOC a percentage of such revenue as a commission equal to forty-three percent (43 %) of the "ITS Commissionable Revenue" from all ITS Collect and Debit calls under this contract. Failure by Contractor to pay such commission to the CDOC by the due date set out herein shall be deemed to be an event of default under this Contract.

4.2.2. The State shall establish billing procedures. Contractor shall submit to the State a monthly invoice which shows the total revenue generated from debit calls and the total commission earned by the State on the total billable debit and collect calls placed through the ITS. The obligation owed by or due to the CDOC inmate trust fund will be the difference between the cost of the inmate phone calls and the commissions earned for that month. All monthly payments made to the Contractor shall be made by Electronic Funds Transfer.

4.2.3. ITS Commissionable Revenue. "ITS Commissionable Revenue" is the total billable revenue for all ITS Collect and Debit calls processed, less:

- a. Taxes, as applicable,
- b. Credits,
- c. Any amount the Contractor collects or otherwise pays to third parties in support of programs mandated by governmental or quasi-governmental

11/1/12

authorities, such as the Universal Service Fund and the Carrier Access Charge,

- d. Any amount the Contractor pays to payphone service providers pursuant to Section 276 of the Telecommunications Act of 1996 ("Section 276") and the regulations implementing Sections 276, and
- e. Any costs incurred by the Contractor in connection with such compensation requirements in support of program mandated by governmental or quasi-governmental authorities, including without limitation those of Section 276.

5. Contractor's Staff. Only designated and approved Contractor Personnel shall work on this contract. Contractor personnel shall pass CDOC background checks before they will be allowed to work inside CDOC facilities. Contractor shall screen all designated Contractor personnel to ensure that all such individuals are fully qualified to work on this contract and, if required by law or ordinance, are validly licensed and/or have obtained all requisite permits.

6. Security and Access. Contractor shall provide physical and logical protection for State hardware, software, applications and data that meet or exceed industry standards. Contractor shall provide the State with access, subject to Contractor's reasonable access security requirement, seven (7) days a week, 24 hours a day, for the purpose of inspecting and monitoring access and use of State data and maintaining State systems.

7. Legal Authority. Contractor warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind Contractor to its terms. The person(s) executing this contract on behalf of the Contractor warrant(s) that such person(s) have full authorization to execute this contract.

8. Warranty. Contractor expressly warrants that in providing the ITS services:

- 8.1. Contractor shall strictly comply with the descriptions and representations as to services and deliverables (including performance, capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, functions and requirements) set forth in this contract and the exhibits hereto. Contractor and Contractor's employees shall perform the services and deliver the deliverables in a timely manner;
- 8.2. The services to be performed hereunder shall be performed in a workmanlike manner, subject to the supervision and instructions provided by State, and consistent with that level of care and skill ordinarily exercised by other providers of similar services under similar circumstances at the time Services are provided;
- 8.3. Contractor is the lawful owner or licensee of all software, hardware, methods, methodologies and any pre-existing Intellectual Property used in the performance of the services and the delivery of the deliverables contemplated hereunder. The Contractor has the right to permit the State access to or use of such software, hardware, methods, methodologies and Intellectual Property;
- 8.4. All software and hardware used to provide the ITS will meet all specifications set forth in this contract and any documents referenced therein.
- 8.5. Contractor will, without charge to the State, correct any defects and make any additions, modifications or adjustments to any of its ITS equipment used under this

STATE OF COLORADO FISCAL RULES
SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

GOVERNOR

Value-Added Communications, Inc.
Legal Name of Contracting Entity

By [Signature]
Executive Director

36-3617386
Social Security Number or FEIN

Department of _____

LEGAL REVIEW: Signature of Authorized Officer

ATTORNEY GENERAL

[Signature] PRESIDENT By Mark Turner PRESIDENT Print
Name & Title of Authorized Officer

CORPORATIONS: (A corporate attestation is required.)

Attest (Seal) By _____ (Corporate Secretary or Equivalent, or Town/City/County Clerk) (Place corporate seal here, if available)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER:

By [Signature]
Date 12/15/06

Issued by the State Controller's Office Date Issued: 7/1/74 Rule 3-1 Date Revised: 8/1/05

15
11/15

EXHIBIT 13

COPY

**CONTRACT FOR SERVICES
BETWEEN
T-NETIX, Inc.
AND
INDIANA DEPARTMENT OF ADMINISTRATION
DIVISION OF INFORMATION TECHNOLOGY**

COPY

This Contract for Services (hereinafter 'Contract') entered into by and between the State of Indiana, Department of Administration, Division of Information Technology, RM N551, Indiana Government Center North, 100 N. Senate Avenue, Indianapolis, Indiana 46204 (hereinafter 'State') and T-NETIX, Inc with principal place of business at 1544 Valwood Parkway, Suite 102, Carrollton, TX 75006. (hereinafter 'Contractor').

RECITALS

WHEREAS, the State desires to contract for services in the area of Public and Inmate Long Distance Services; and

WHEREAS, Contractor is willing to provide such services;

NOW, THEREFORE, the above named parties enter into this Contract upon the following terms and conditions:

CONTRACT PROVISIONS

1. Contractor Role and Responsibility

The contractor, in consideration of the terms and conditions contained in this Contract, agrees to provide to the State Public Telephone InterLATA, Intrastate, and Interstate Long Distance Service (and any service features related thereto) capable of meeting the requirements set forth in the RFP (ASA1-1-47).

In addition, the Contractor agrees to pay the State a percentage of revenues generated from the use of state pay telephones in accordance with the commission rates set forth below in Paragraph 16.

2. Term

This Contract shall commence upon execution by the Contractor and all the representatives of the state of Indiana as required under law to enter into this Contract. The initial Contract term shall be forty-eight (48) consecutive months. The term shall end at midnight EST of the same month and same day forty-eight (48) months following Contract execution; There may be additional renewals of two (2) years each for a total term of eight (8) years at the State's option.

3. Local Operating Company Charges

The Contractor shall pay, without limitation, any and all Local Operating Company charges incurred as a result of converting the State's public telephones lines and/or circuits to the Contractor's long distance service.

4. Contract Administration

Contractor acknowledges that the Indiana Department of Administration, Division of Information Technology is the sole representative for conducting business with Contractor concerning the services provided to the State for agencies or other government entities. Contractor expressly agrees to make any presentation, proposal, negotiation, discussion, written contact or any other business correspondence or matter relating to the State with the Division of Information Technology and not with any other government entity.

5. Faithful Performance Bond

The Contractor agrees to furnish to the Indiana Department of Administration a Performance Bond in the amount \$1,000,000 which must be delivered to the State concurrent with the Contractor's execution of this contract. The performance bond may be in the form of a cashier's check, a certified check, or a surety bond. If a surety bond is executed, the surety company must be authorized to do business in the State of Indiana as approved by the Indiana Department of Insurance. The performance bond shall be made payable to the Indiana Department of Administration and shall be effective throughout the life of the Contract including any extension of the Contract term.

Any change in work, extension of time, or termination of this Contract, if any, made pursuant to this Contract, shall in no way release the Contractor or any of its sureties from any of their obligations relating to any act which occurs prior to termination of this contract. Such bond shall contain a waiver of notice of any change to this Contract.

Notwithstanding any other provisions relating to the beginning of the term, this contract will not become effective until the performance bond required by this contract is delivered in the correct form and amount to:

Indiana Department of Administration
Procurement Division
Room W468, Indiana Government Center
402 W. Washington Street
Indianapolis, IN 46204-2263
Attn: Shelly Harris

6. Incorporated by Reference

The Request for Proposal (RFP) distributed by the Indiana Department of Administration, State of Indiana, and the Contractor's response thereto (including the letters and other communication from the Contractor listed in, and attached to, Exhibit "B" to this agreement), are incorporated herein by reference, and are hereinafter collectively referred to as "the Proposal",

or "Contractor's proposal".

Reference hereafter to certain of the subjects, topics, provision, terms, obligations, rights, duties and other matters in said instruments is not meant to exclude the importance of other portions of said instruments, rather the reference(s) is (are) intended to amplify upon or clarify the import, meaning and/or effect(s) thereof as they might relate to the rights, duties, and obligations of the parties to this Contract.

The reference or non-reference to certain portions of the RFP and proposal shall not preclude the reasonable construction of the terms of said instruments which may be required from time to time during the term of this Contract; provided, that when the parties desire to clarify the construction of significant areas of dispute, said construction shall be effectuated only by the written mutual agreement of the parties, hereto, or as otherwise provided in this Contract.

If there be any conflict between this Contract, the RFP, and/or the Contractor's response to the RFP, this Contract shall govern.

Notwithstanding the foregoing, it is understood that the State has relied upon the truthfulness of the Contractor's proposal and its various parts, including but not limited to, proprietary information, and confidential information submitted by the Contractor, which is not reproduced herein, in entering into this Contract and should said materials prove to be false or misleading, the State may seek appropriate remedies at law and in equity and may produce and disclose in court proceedings said materials.

7. Changes

All changes to this Contract shall be by formal amendment of and shall be signed by all parties required to affix their signatures thereto by Indiana law.

The State may from time to time add or delete service locations and make minor changes to the phone systems without such requiring the execution of a formal amendment as required under 36. Change notification may be given by telephone, fax, written letter, or email.

8. Acceptance Procedure

Contractor shall Cutover all new service locations within thirty (30) calendar days of notification by the State or the affected Local Exchange Carrier.

Upon installation of the Public Telephone Long Distance Service, an acceptance test will be performed by the State, with the assistance of the Contractor where appropriate, at the new service location. The acceptance testing period will begin at installation and continue for sixty (60) days or until seven (7) days following the State's receipt of the first commission check and set of monthly reports related to that location, whichever period of time is greater.

During the acceptance testing period, the State will have the productive use of the Public Telephone Long Distance Service and determine whether the service conforms to the requirements specified in this RFP and the Contractor's Proposal.

14. Warranty

The Contractor warrants, represents and assures that the Public Telephone Long Distance Service to be provided hereunder shall conform in all aspects to the requirements of the Contract and as designed will meet the functional and performance standards contained therein and will meet or exceed the representations contained in the Proposal during the entire term of the Contract.

15. Service Degradation

Contractor warrants that the communications network providing the service under this agreement will perform in all respects with the manufacturer's specification for the network. This warranty shall be in effect throughout the term of this contract.

If the communications network providing the long distance service fails to perform as specified above, and the State notifies Contractor, Contractor shall correct such service degradations promptly and without charge to the State. The State may report and Contractor shall repair any and all service degradations seven (7) days a week, twenty-four (24) hours per day. For the purpose of this provision Service degradation shall be defined as any complete loss of long distance service as defined in the RFP.

When long distance service is interrupted and interruption exceeds one (1) hour, as measured from the time interruption is reported to or is detected by the Contractor, whichever occurs first, Contractor will provide the State a commission credit per affected telephone line, per day of service interruption based on the average daily revenue for the phone line using the previous month's average to calculate.

16. Commission Payments

Inmate Payphones

Contractor shall provide to the State payment of a thirty-five percent (35%) rate of commission for billed revenues for Contractor 0+, 00- and 01 (excluding 500, 700, 800, 888, 900 and Directory Assistance) that are generated for the Contractor from the State of Indiana's Public Telephones covered under this RFP. Commission will be calculated based on a monthly period.

Public Payphones


Contractor shall provide to the State payment of a fifty percent (50%) rate of commission for billed revenues for Contractor 0+, 00- and 01 (excluding 500, 700, 800, 888, 900 and Directory Assistance) that are generated for the Contractor from the State of Indiana's Public Telephones covered under this RFP. Commission will be calculated based on a monthly period.

17. Independent Contractor

Both parties hereto, in the performance of this Contract, will be acting in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Neither party will assume any liability for any injury (including

The parties having read and understood the foregoing terms of this Contract do by their respective signatures dated below agree to the terms thereof, including, if this contract is in excess of \$25,000, paragraph 35, Drug-Free Workplace Certification.

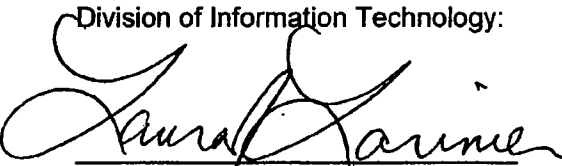
Contractor: T-NETIX, Inc.


Richard E. Cree
E.V.P. Business Development &
Intellectual Property

Date: 7-24-01

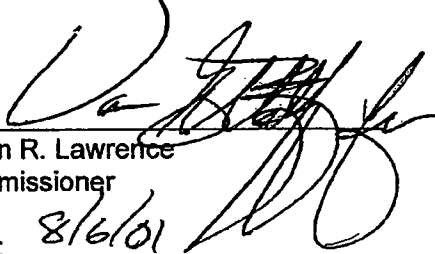
Federal I.D. #: 84-1037352

Department of Administration
Division of Information Technology:

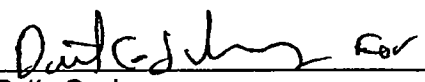

Laura J. Larimer
Director

Date: 8/2/01


Department of Administration:


Glenn R. Lawrence
Commissioner
Date: 8/6/01

State Budget Agency:

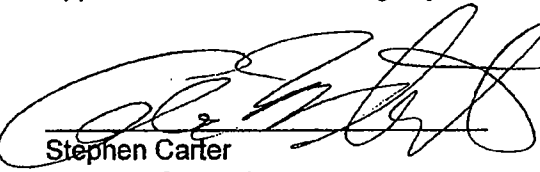

Betty Cockrum
Director
Date: 8/10/2001

Information Technology Oversight
Commission:


Wm Pierce for
Printed Name
Commission Chair

Date: 3-Aug-2001

Approved as to form and legality:


Stephen Carter
Attorney General
Date: 8/17/01

Amendment #1

This is an amendment to the contract entered into by and between the Indiana Office of Technology (hereinafter the "State") and T-NETIX, Inc. (hereinafter the "Contractor") which contract commenced on August 17, 2001.

In consideration of the mutual undertakings and covenants hereinafter set forth, the parties agree as follows:

Pursuant to IC 5-22-17-4 and the terms of the contract, the State exercises its option to renew its contract with the Contractor under the same terms and conditions of the original contract dated August 17, 2001. The entire contract shall commence on August 17, 2005, and shall terminate on August 16, 2007.

The following clauses are being added to the original contract:

Ethical Obligation

The contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the contractor is not familiar with these ethical requirements, the contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<http://www.in.gov/ethics/>>>. If the contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this contract immediately upon notice to the contractor. In addition, the contractor may be subject to penalties under Indiana Code § 4-2-6-12.

Telephone Privacy Compliance

1. The Contractor and any principals of the Contractor certify that
 - A. The Contractor, except for *de minimis* and nonsystematic violations, has not violated the terms of
 - (i) IC 24-4.7 [Telephone Solicitation of Consumers],
 - (ii) IC 24-5-12 [Telephone Solicitations], or
 - (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
 - B. The Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

In Witness Whereof, Contractor and the State of Indiana have, through duly authorized representatives, entered into this agreement. The parties having read and understand the foregoing terms of the contract do by their respective signatures dated below hereby agree to the terms thereof.

Contractor:

(Where Applicable)

By: Richard Falcone
Printed Name: Richard Falcone
Title: CEO
Date: 7-13-05

Attested By: _____

Indiana Office of Technology

[Signature]
Chris W. Cotterill
General Counsel & Compliance Officer
Date: 7/25/05

Department of Administration

Ausamth. Goode FOR
Earl A. Goode
Commissioner
Date: 7-26-05

State Budget Agency

[Signature]
Charles E. Schalliol
Director
Date: 8/1/05

Office of the Attorney General

Elizabeth A. Brown for
Stephen Carter
Attorney General
Date: 8-17-05

APPENDIX 6 - MANDATORY

Please provide the State with at least four (4) different rate options showing the call connect fee/surcharge, per minute call cost, and commission percentage you will pay the State on the listed rates.

VENDOR PRICING WORKSHEET		
CALL CONNECT FEE	PER MINUTE COST	COMMISSION %
<u>Inmate Collect Call</u> \$3.00	<u>Inmate Collect Call</u> \$0.50	<u>Inmate Collect Call</u> 60.50%
<u>Inmate Collect Call</u> \$2.50	<u>Inmate Collect Call</u> \$0.45	<u>Inmate Collect Call</u> 57%
<u>Inmate Collect Call</u> \$2.25	<u>Inmate Collect Call</u> \$0.35	<u>Inmate Collect Call</u> 50%
<u>Inmate Collect Call</u> \$2.00	<u>Inmate Collect Call</u> \$0.30	<u>Inmate Collect Call</u> 44%
<u>Inmate Collect Call</u> \$1.50	<u>Inmate Collect Call</u> \$0.25	<u>Inmate Collect Call</u> 35%

All rate options are available for InterLATA Intrastate and InterLATA Interstate calls.

April 9, 2001

Ms. Shelley Harris
IDOA Manager
Procurement Division
State of Indiana

Via Email and Fax

Dear Ms. Harris:

T-NETIX' answers to the two questions you have submitted regarding our response to RFP ASA1-1-47 – Public Telephone Long Distance Services for the Indiana State Division of Information Technology are as follows:

1. One of the rates that T-Netix is proposing for inmate collect calls is \$1.50 call connect and \$.25 a minute regardless of whether it is an intrastate or interstate call at a 35% commission rate? YES or NO

T-NETIX RESPONSE: YES

2. The lowest rate for inmate prepaid is \$.25 a minute for all types of inmate prepaid calls. YES or NO

T-NETIX RESPONSE: YES

If you have any additional questions please contact me on 973-812-2393.

Sincerely,

Arthur E. Heckel
Vice President – Sales
T-NETIX, Inc.

EXHIBIT 14

SERVICE CONTRACT AWARD

STATE OF NEBRASKA

STATE PURCHASING BUREAU
301 CENTENNIAL MALL SOUTH
P.O. BOX 94847
LINCOLN, NEBRASKA 68509-4847
PHONE: 402-471-2401
FAX: 402-471-2089

Vendor/Contractor:
AT&T

9257 Phinney North
Seattle, WA 98103

Date: November 27, 2002

Contract Number: SCA-0254

General Classification: Inmate Calling Systems

Contact Name: Howard P. Tharp
Phone: 206-297-8319
FAX: 206-297-2916

Agency Name: DAS - Communications

AN AWARD HAS BEEN MADE TO THE VENDOR/CONTRACTOR NAMED ABOVE FOR THE SERVICES AS LISTED BELOW FOR THE PERIOD:

November 27, 2002 through November 26, 2007

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE VENDOR/CONTRACTOR AND THE STATE OF NEBRASKA.

THE VENDOR/CONTRACTOR'S SIGNATURE ON THE STATE OF NEBRASKA'S "INVITATION TO BID" FORM IS THE COMMITMENT TO THE STATE TO PERFORM SPECIFIED SERVICES AND ADHERE TO ALL TERMS AND CONDITIONS ON PAGE 2. THE AUTHORIZED SIGNATURE BELOW EXECUTING THIS CONTRACT ONLY ACKNOWLEDGES A COMPETITIVE BIDDING PROCESS WAS FOLLOWED. ACCEPTANCE OF ANY PROPOSALS OR DEVIATIONS FROM SPECIFICATIONS IS THE RESPONSIBILITY OF THE ORIGINATING STATE AGENCY. DOCUMENTATION OF AGENCY ACCEPTANCE OF PROPOSAL TO THIS AWARDED CONTRACTOR IS ATTACHED AND IS PART OF THE CONTRACT AWARD.

Contract to provide **Inmate Calling Systems** for the State of Nebraska covering the period beginning November 27, 2002 through November 26, 2007 with the option to renew for two (2) additional one (1) year periods as mutually agreed upon by all parties.

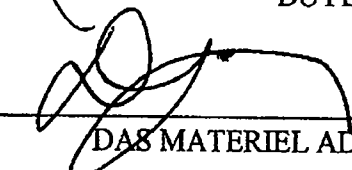
The contract shall incorporate the following previously submitted documents:

1. The signed Request for Proposal form;
2. The original Request for Proposal document;
3. Any Request for Proposal Addenda and or Amendments to include Questions and Answers;
4. The Contractor's Proposal;
5. Any Contract Amendments, in order of significance; and
6. Contract Award.

Agency Contacts: Bob Howard
DAS - Communications
Phone: 402-471-3720
bhoward@doc.state.ne.us

Terry Ewing
Department of Correctional Services
Phone: 402-471-2654
tewing@dcs.state.ne.us


BUYER


DAS MATERIEL ADMINISTRATOR

State of Nebraska (State Purchasing Bureau)
**REQUEST FOR PROPOSAL
FOR CONTRACTUAL SERVICES FORM**

RETURN TO:
State Purchasing Bureau
301 Centennial Mall South, 1st Floor
Lincoln, Nebraska 68508
OR
P.O. Box 94847
Lincoln, Nebraska 68509-4847
Phone: 402-471-2401
Fax: 402-471-2089

CONTRACT NUMBER	DATE
SCA-0254	October 22, 2002
OPENING DATE AND TIME	PROCUREMENT CONTACT
November 13, 2002, 2:00 p.m. Central Time	Ruth Gray

This form is part of the specification package and must be signed and returned, along with proposal documents, by the opening date and time specified.

PLEASE READ CAREFULLY!

SCOPE OF SERVICE

The State of Nebraska, Department of Administrative Services (DAS), Materiel Division, Purchasing Bureau (hereafter known as State Purchasing Bureau), is issuing this Request for Proposal, Service Contract Award Number SCA-0254 for the purpose of selecting a qualified contractor to provide Inmate Calling Systems for the State of Nebraska.

A Pre-Proposal Conference with mandatory attendance will be held on November 1, 2002, 10:30 a.m. Central Time, at the State of Nebraska, Materiel Division, Purchasing Bureau, located in the State Office Building at 301 Centennial Mall S., Mall Level, Lincoln, NE 68508.

Written questions are due no later than November 1, 2002, and should be submitted via e-mail to <mailto:matpurc@notes.state.ne.us>. Written questions may also be sent by facsimile to 402-471-2089.

Sealed proposals must be received in the State Purchasing Bureau, 301 Centennial Mall South, Mall Level, Lincoln, Nebraska 68508 on or before November 13, 2002, 2:00 p.m. Central Time, at which time proposals will be publicly opened.

One (1) Original and six (6) copies of the entire proposal should be submitted by the proposal due date and time.

**PROPOSALS MUST MEET THE FOLLOWING REQUIREMENTS TO BE CONSIDERED VALID.
PROPOSALS WILL BE REJECTED IF NOT IN COMPLIANCE WITH THESE REQUIREMENTS.**

1. Proposals must be received in State Purchasing by the date and time of proposal opening indicated above. **NO late proposals will be accepted. NO fax proposals accepted.**
2. Proposals must meet all specifications of the RFP and terms and conditions of this form.
3. This form **"REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES"** **MUST** be manually signed, in ink, and returned by the proposal opening date and time along with your proposal and any other requirements as specified in the RFP in order to be considered for an award.

CONTRACTOR MUST COMPLETE THE FOLLOWING

By signing this Request For Proposal For Contractual Services form, the Contractor guarantees compliance with the provisions stated in this Request for Proposal, agrees to the Standard Conditions and Terms of Contractual Services and Leasing Solicitation and Offer and is committed to provide a drug free work place environment.

FIRM: AT&T
COMPLETE ADDRESS: 9257 PHINNEY NORTH, SEATTLE, WA 98103
TELEPHONE NUMBER: 206-297-8319 FAX NUMBER: 206-297-2916
SIGNATURE: Howard P. Tharp DATE: 11/11/02
TYPED NAME & TITLE OF SIGNER: HOWARD P. THARP REGIONAL SALES MANAGER



8. The NDCS or the DOC will give all orders for installation, removal, or modification in writing. The contractor will not install, modify, remove, or make any changes to service without written approval.

AT&T Response: AT&T has read, understands and will comply. AT&T will not install, remove or make changes without the written approval of the NDCS or DOC.

D. BUSINESS REQUIREMENTS

1. Commissions

In an attempt to keep inmate calling rates as low as possible, The State of Nebraska does not wish to receive a commission from the inmate calling services.

AT&T Response: AT&T has read, understands and will comply. See AT&T's Cost Proposal.

2. Rates

Contractor must provide rates for the following categories:

Collect calling

- Local
- Intralata
- Intrastate
- Interstate
- International (provide rates to each country where collect calling is available)
- Per call surcharge

Debit calling

- Local
- Intralata
- Intrastate
- Interstate
- International (provide rates to each country where debit calling is available)
- Per call surcharge

Per minute charges must be flat rate twenty-four (24) hours a day, seven (7) days a week.

Rates must remain stable for the life of the contract. Rate increases will not be entertained by the State of Nebraska.

AT&T Response: AT&T has read, understands and will comply. See AT&T's Cost Proposal.

3. Collect Billing

Contractor must provide a list of LEC, and CLEC names and Operating Company numbers for every local exchange carrier at which the contractor has an established collect billing arrangement. Collect calls to parties whose local telephone service is provided by a LEC or CLEC appearing on this list must not be blocked for any reason except in the event that the LEC or CLEC itself has placed a collect call restriction on that telephone line, or the line has been ported from a billable LEC to a CLEC. If collect calls are blocked due to LEC or CLEC restriction, the nature of this restriction must be presented to the NDCS/DOC within twenty-four (24) hours of request.



RATE INFORMATION SHEET

LOCAL:

COLLECT: PER CALL SERVICE CHARGE: \$.75; CALL RATE \$.25 unlimited (total \$1.00)
DEBIT: \$.80

INTRALATA RATES:

COLLECT: PER CALL SERVICE CHARGE: \$.75; PER MINUTE CHARGE: \$.07
DEBIT: PER CALL SERVICE CHARGE: \$.60; PER MINUTE CHARGE: \$.056

INTERLATA (IN STATE)

COLLECT: PER CALL SERVICE CHARGE: \$.75; PER MINUTE CHARGE: \$.10
DEBIT: PER CALL SERVICE CHARGE: \$.60; PER MINUTE CHARGE: \$.08

INTERLATA (STATE TO STATE)

COLLECT: PER CALL SERVICE CHARGE: \$.75; PER MINUTE CHARGE: \$.20
DEBIT: PER CALL SERVICE CHARGE: \$.60; PER MINUTE CHARGE: \$.16

INTERNATIONAL:

NO COLLECT
DEBIT: \$.50 PER UNIT

EXHIBIT 15

STATE OF VERMONT
STANDARD CONTRACT FOR PERSONAL SERVICES

Contract # 10314
Change #

I. Parties This is a contract for personal services between the State of Vermont, Department of Corrections (hereafter called "State"), and Public Communication Services, with principal place of business in California, (hereafter called "Contractor"). Contractor's form of business organization is a corporation. Contractor is required by law to have a Business Account Number from the Vermont Department of Taxes. Account Number is 2036847.

Subject Matter The subject matter of this contract is personal services generally on the subject of providing an inmate accounting system; and inmate commissary and telephone services. Detailed services to be provided by the Contractor are described in Attachment A.

Maximum Amount In consideration of the services to be performed by Contractor, the State agrees to pay Contractor in accordance with the payment provisions specified in Attachment B a sum not to exceed \$5000.

Contract Term The period of Contractor's performance shall begin on 10/1/06 and end on 9/30/08.

Prior Approvals If approval by the Attorney General's Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.

Yes ☐ No ☐ Approval by the Attorney General's Office required.
Yes ☒ No ☐ Approval by the Secretary of Administration required.

Amendment No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

Cancellation This contract may be cancelled by either party by giving written notice at least 30 days in advance.

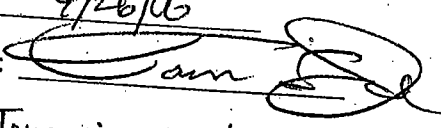
Attachments This contract consists of _____ pages including the following attachments which are incorporated herein:

- Attachment A - Specifications of Work to be Performed
- Attachment B - Payment Provisions
- Attachment C - "Customary State Provisions", Revised 11/09/04
- Attachment D - Modifications of Maximum Insurance Requirements
- Attachment E - Business Associate Agreement (Revised 03/28/06)
- Attachment F - Final Adopted Rule for Access to Information
- Attachment G - Commissary Menu
- Attachment H - Inmate Telephone System Upgrade Time-line
- Attachment I - Inmate Telephone Rate Chart

THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT.

STATE OF VERMONT
9/27/06

re: Robert D. Hoffmann, Commissioner
for AHS/Corrections

by the CONTRACTOR
Date: 9/26/06
Signature: 
Tommie E. Lee
(Please PRINT signature)

Name: Public Communication Services
Address: 11859 Wilshire Blvd, Suite 600
Los Angeles, CA 90025
Fed. ID/SS#: 95-4615444
Title:

VED AS TO FORM:

General:  Date: 8/15/06

**ATTACHMENT A
CONTRACT FOR SERVICES
SPECIFICATIONS OF WORK TO BE PERFORMED**

Definition of Terms

Herein the Vermont Department of Corrections (DOC) shall be referred to as the State. Herein Public Communication Services (PCS) shall be referred to as Contractor. State acknowledges Contractor is subcontracting: inmate commissary services; and the inmate accounting system and services to Compass Group USA, Inc. by and through its Canteen Correctional Services division. Subcontractor's services are mostly defined in sections one (1) and section two (2) of Attachment A, "Scope of Services". However, the Contractor named in this document, is ultimately responsible for satisfying--in full, the scope of services and performance expectations as defined within this contract.

This document serves as a binding contract for an Inmate Accounting System; Inmate Commissary and Inmate Telephone Services. The State of Vermont and/or the Contractor may terminate this contract at any time given 30 day written notice.

3. Inmate Telephone Services

- 3.1 Successful vendor must provide the Vermont Public Service Board a list of rates for approval. Refer to Appendix I for Inmate Telephone Rate Chart.
- 3.2 The Contractor is responsible for providing complete telephone services at all correctional facilities. Inmate telephone services include: Collect calling; Pre-paid collect calling; and Debit Calling.
- 3.3 Contractor will provide inmate telephone debit software and server. The system must have the ability to administer a fully automated inmate phone debit system with the inmate accounting system. This requires an electronic interface to automatically debit phone calls when purchased through commissary.
- 3.4 The Contractor will provide a software system to manage the inmate debit account. System must interface with the inmate accounting system and be capable of crediting debit balances and deactivating accounts when release procedures are performed in the inmate accounting software.
- 3.5 The inmate debit system must be capable of generating activity reports, call history reports and transaction receipts.
- 3.6 The Contractor shall provide any special hardware, equipment and supplies needed to run and manage the inmate debit system to each facility. Special hardware refers to special equipment needed to run the system, i.e. thermal receipt printers, etc. Supplies denote provisions needed to run special hardware and equipment; i.e. thermal paper for thermal printers.
- 3.7 Contractor will upgrade their system and hardware as described in Attachment H.
- 3.8 Contractor must provide each facility has a workstation with equipment for monitoring and recording calls.
- 3.9 Contractor must provide a telephone network such that inmate telephone calls may be monitored and recorded from any site.
- 3.10 Call charges and rates must be set at a minimum to protect the collect called parties from excessive expense incurred by collect, debit and pre-paid collect calls made to them from inmates.
- 3.11 ~~Contractor will provide inmate telephone service.~~
- 3.12 Contractor will install up to two more telephones in each unit to accommodate commissary ordering by phone.
- 3.13 The proposed service must provide the following control features at a minimum:
 - 3.13.1 Call duration control
 - 3.13.2 Allowed/Disallowed caller lists
 - 3.13.3 Time of day control of telephones
 - 3.13.4 Three-way or conference call blocking
 - 3.13.5 Full time call monitoring including digital readout of called telephone number and digital call recording capability
 - 3.13.6 Capability to quickly shut down all telephones during an emergency
 - 3.13.7 Ability to flag inmate user for security risk management

**ATTACHMENT B
CONTRACT FOR SERVICES
PAYMENT PROVISIONS**

1. Contractor agrees to invoice the State for commissary sales no less frequently than monthly. The Contractor agrees to render an invoice to the State by fifteen (15) days following the last day of the month in which the service was provided. The State will not be liable for payments for any service invoiced after the 15-day limit. Payment of commissary invoices is on behalf of Vermont inmates.
2. Invoices will be itemized by week, and facility. Invoices must also outline stamp and debit purchases for reconciliation to commission earnings.
3. The Contractor agrees to pay the State 33.5% commission on commissary sales net of sales tax, excluding postage stamps and debit telephone purchases made through commissary. Commission will be remitted to the State no later than fifteen (15) days following month end.
4. Contractor agrees to pay the State 31.6% commission on all debit, collect and pre-paid collect inmate telephone calls. Refer to Attachment I for inmate telephone rates. Commission will be remitted to the State no later than fifteen (15) days following month end.
5. Contractor is responsible for filing and remitting all taxes.
6. Contractor shall submit all commissions and invoices to the State Agent listed below or designee:
Alan Johnson
Agency of Human Services
Osgood Building, First Floor
103 South Main Street
Waterbury, VT 05671-3710
7. The State will impose monetary sanctions/penalties for non-compliance of the specifications of work to be performed. These sanctions are defined in Attachment A. Upon infringement of contract terms, the State will issue the Contractor an electronic written request for contract compliance. Sanctions may be administered 24 hours after the written request for compliance is sent. Written requests for contract compliance must be responded to within 24 hours by the vendor. If non-compliance exists for more than 30 days, if in the best interest of the State, contract termination will be executed. Obligatory sanctions will be remitted to the Vermont Inmate Recreation Fund.

ATTACHMENT I

Inmate Telephone Rate Chart

[Handwritten signature]

State of Vermont

Inmate Telephone Calling Rates

Rates do not include federal, state or federal taxes,
and other applicable surcharges.

Collect Calling Information

Collect Call Rates	Collect Call Rates		
	Call Type	Operator Charge	Per Minute
	Local Call	\$1.40	\$0.072
	IntraState (In-state Long Distance)	\$1.40	\$0.230
	InterState (Out-of-state Long Distance)	\$3.25	\$0.500
	International	\$3.95	\$0.890

Pre-Paid Collect Calling Information

Pre-Paid Collect Call Rates	Collect Call Rates		
	Call Type	Operator Charge	Per Minute
	Local Call	\$1.40	\$0.07
	IntraState (In-state Long Distance)	\$1.40	\$0.23
	InterState (Out-of-state Long Distance)	\$3.25	\$0.50
	International	\$3.95	\$0.89

Debit Calling Information

Debit Call Rates	Debit Call Rates		
	Call Type	Connect Charge	Per Minute
	Local Call	\$0.75	\$0.06
	IntraState (In-state long distance)	\$0.75	\$0.14
	InterState (Out-of-state long distance)	\$0.75	\$0.14
	International	\$1.80	\$0.48

[Handwritten signature]

EXHIBIT 16

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

(revised)

INFORMATION TECHNOLOGY CONTRACT

ITEM: 3-IT

Agency Contact: Ellis Kitchen (410) 260-2994
ekitchen@dbm.state.md.us

DEPARTMENT:

Budget and Management (DBM)

PROGRAM:

Office of Information Technology (OIT)
Telecommunications Division

DBM's OIT oversees the management and integration of Information Technology (IT) throughout the Executive branch of State government and has direct responsibility for the State's planning, policy formulation and implementation and administration of all Statewide IT contracts. The OIT Telecommunications Division is responsible for coordinating and managing telecommunications based activities Statewide, including payphone equipment and services located in State correctional facilities.

CONTRACT NO. & TITLE:

050R2800336;
DPSCS Local and Long Distance Payphone
Equipment and Services

ADPICS DOCUMENT ID NUMBERS:

050B4800011

DESCRIPTION:

Revenue generating contract to provide local and long distance calling services at State correctional facilities operated by the Department of Public Safety and Correctional Services (DPSCS). Contract also supplies and maintains the correctional facilities' public pay telephones which includes control and monitoring equipment. Under this new contract, the DPSCS Inmate Welfare Fund will continue to receive the same amount of revenue as compared to the current contract and inmates and their families will pay substantially lower prices for these services (see Requesting Agency Remarks below).

TERM:

12/17/2003 - 12/31/2006 (W2 one-year
renewal options; see Requesting
Agency Remarks below)

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

PROCUREMENT METHOD:

Competitive Sealed Proposals

BIDS OR PROPOSALS:

See Attachment

AWARD:

T-NETIX, Inc.
Carrollton, TX
(Local office in Delmar, MD)

INCUMBENTS:

AT&T (for long distance services)
(5/10/89 - 12/31/2003; \$43,792,381 revenue
paid to the State)

Verizon, Inc. (for local services/equipment)
(9/27/89 - 12/31/2003; \$12,637,995 revenue
paid to the State)

FUND SOURCE: N/A (Revenue Generating)

APPROP. CODE: N/A

AMOUNTS :

\$20,500,000 Est. (3 Years; Base Contract)
\$ 7,000,000 Est. (1 Year; 1st Renewal Opt.)
\$ 7,000,000 Est. (1 Year; 2nd Renewal Opt.)
\$34,500,000 Est. Grand Total of Revenue to
the State (5 Years)

PERFORMANCE BOND:

None

REQUESTING AGENCY REMARKS:

A notice of the availability of the Request for Proposals (RFP) was advertised in the *Maryland Contract Weekly* and at the *eMarylandMarketplace.com* website. Copies of the solicitation notice were e-mailed directly to 17 prospective vendors, 6 of which were Maryland firms and included 1 MBE. A copy was also sent to the Governor's Office of Minority Affairs.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

A 10 % MBE goal was established for this contract. T-NETIX, Inc. ("T-NETIX"), the recommended contractor, has selected McEnroe Voice and Data Corporation ("McEnroe"), Hunt Valley, MD, to fulfill this goal. McEnroe will provide a voice recording system for the T-NETIX inmate calling platform and provide quality control and project management services. Since a vast majority of this contract is for network service to the telephones and with the lack of certified MBE firms in the business of providing the requested telephone equipment and services, it was decided that a 10% MBE goal was reasonable for this contract.

DBM received proposals from six vendors for this RFP. However, one of the six vendors was deemed not reasonably susceptible of being selected for award and was so notified. The remaining five vendors were deemed reasonably susceptible of being selected for award as shown in the Attachment.

Currently, DBM has contracts with Verizon, Inc. ("Verizon"), to provide DPSCS inmate pay station equipment and local services at a current commission rate of 20%; and with AT&T Corp. ("AT&T"), to provide long distance carrier services to the pay stations at a current commission rate of 42%.

Under the current contract with Verizon, the State's Inmate Welfare Fund receives approximately \$500,000 in revenue annually. Under the current contract with AT&T, the State's Inmate Welfare Fund receives approximately \$6,500,000 in revenue annually. The RFP for this new contract required only one vendor to provide both the pay station equipment and local and long distance services. This was done to maximize the State's buying power with the objective of obtaining better rates for both services.

There were four goals set for this contract:

1. Lower the calling rates for the consumer;
2. Maintain the current annual revenue stream for the State's Inmate Welfare Fund,
3. Offer consumers, at no cost to the State or need for State staff resources, a debit/prepaid program; and
4. Provide, at no cost to the State, state-of-the-art monitoring, controlling and recording equipment.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

Although providing lower calling rates for the consumer and maintaining the current annual revenue stream for the State's Inmate Welfare Fund were conflicting goals and seemed difficult to achieve, all four goals will be met through this award, as follows:

1) Lower Calling Rates for the Consumer

Inmates and their families will pay substantially lower prices for these services compared to the current contract.

Under the current contract, calling rates for local calls are 85 cents per call regardless of the length of the call. Under the new contract, rates for local collect calls will remain at 85 cents per call regardless of the length of the call. However, when consumers pay for local calls using the debit/prepaid program (see below description for goal #3), the cost is 50 cents per call regardless of the length of the call. This is a savings of 35 cents or 41% per call to the consumer over the current contract.

Under the current contract, calling rates for intra-State calls (long distance calls within the State) are \$3.45 for the first minute and 45 cents a minute thereafter. Under the new contract, calling rates for intra-State calls will be reduced to \$2.85 for the first minute (a savings of 60 cents or 17% over the current contract) and 30 cents per minute thereafter (a savings of 15 cents or 33% over the current contract). In addition, when consumers pay for long distance calls within the State using the debit/prepaid program, intra-State calls will be reduced to 30 cents for the first minute (a savings of \$3.15 or 91% over the current contract) and 30 cents per minute thereafter (a savings of 15 cents or 33% over the current contract).

Under the current contract, calling rates for inter-State calls (long distance calls outside the State) are \$4.84 for the first minute and 89 cents a minute thereafter. Under the new contract, calling rates for inter-State calls will be reduced to \$3.00 for the first minute (a savings of \$1.84 or 38% over the current contract) and 30 cents per minute thereafter (a savings of 59 cents or 66% over the current contract). In addition, when consumers pay for inter-State calls using the debit/prepaid program, the cost will be reduced to 30 cents for the first minute (a savings of \$4.54 or 94% over the current contract) and 30 cents per minute thereafter (a savings of 59 cents or 66% over the current contract).

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

Two examples for a 10-minute long distance call are:

1. *For an Intra-State (Within Maryland) Call*

The consumer's cost for making non-debit/prepaid calls – Under the current contract, the cost is \$7.50, while under the new contract the cost will be \$5.55 (a savings of \$1.95 or 25%).

The consumer's cost for making calls using the debit/prepaid – Under the current contract, the cost is \$7.50. Under the new contract, when consumers use the debit/prepaid program the cost for this call would be \$3.00 (a savings of \$4.50 or 60%).

2. *For an Inter-State (Outside of Maryland) Call*

The consumer's cost for making non-debit/prepaid calls – Under the current contract, the cost is \$12.85, while under the new contract the cost will be \$5.70 (a savings of \$7.15 or 55%).

The consumer's cost for making calls using the debit/prepaid – Under the current contract, the cost is \$12.85. Under the new contract, when consumers use the debit/prepaid program, the cost for this call would be \$3.00 (a savings of \$9.85 or 76%).

2) Maintain Current Annual Revenue for the Inmate Welfare Fund

For collect calls the commission rate T-NETIX has offered to pay the State is 48% for local calls (a 140% increase in commission paid to the State over the current contract) and 57.5% for long distance calls (a 15.5% increase in commission paid to the State over the current contract).

For debit/prepaid calls the commission rate T-NETIX has offered to pay the State is 60% for both local and long distance calls (a 40% increase in commission paid to the State over the current contract for local calls and an 18% increase in commission paid to the State over the current contract for long distance calls).

Although under the new contract the calling rates have been significantly reduced, because the commission rates have increased, the revenue stream to DPSCS for the Inmate Welfare Fund will remain consistent with the estimated \$7 million received annually under the current contract.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

3) Offer Consumers a Debit/Prepaid Program

This new contract also provides for a debit/pre-paid program which will be offered to inmates and family members or other approved individuals. This program provides for calls to be paid-for in advance by inmates through the correctional facility commissary system. Also, a family member or other approved party receiving calls from an inmate can pay for calls in advance through T-NETIX. Family members or an other approved party can also request that an inmate's use of a pre-paid calling account be restricted to calls that can be made only to a designated individual. This will provide the ability to keep track of spending for both the inmate, a family member or other approved party.

Through the debit/prepaid program, when placing a call, the caller will be notified, in advance, of the balance on the account. The debit/pre-paid program is totally automated through the pay station equipment system. This debit/pre-paid program will not require staff time, maintenance or cost from DPSCS. In addition, reporting features offer the ability for DPSCS to provide reports to anyone inquiring about balances on prepaid call accounts.

4) Provide State-of-the-art Monitoring, Controlling Recording Equipment

Currently there are approximately 2,000 pay stations installed in 31 DPSCS correctional facilities. The number of pay stations installed in each facility ranges from 24 to 285. These pay stations are connected to specialized call monitoring and control equipment. The monitoring and control equipment is designed to protect the community from fraudulent, threatening or harassing calls. In addition, correctional facilities are equipped with systems which regulate the ability of inmates to make calls based on the requirements of each facility. This equipment is outdated and will be replaced with new state-of-the art technology under the new contract.

This new technology will be fully integrated with the inmate calling system to facilitate the seamless management of recorded telephone conversations while providing security levels that prevent unauthorized access to the recordings. Through a centralized facility, DPSCS staff can access any remote site for investigation purposes or to operate the system, change system configuration, troubleshoot and retrieve data. However, since all facilities are integrated through one network, with the appropriate security, each facility can be accessed by DPSCS staff from any remote location.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

Listed below are some of the functions available with the new technology:

- Assign and manage inmate ID codes;
- Assign and manage specific calling options and privileges;
- Create and manage an allowed *call list* for each inmate;
- Block, unblock or edit blocked numbers in real-time;
- Change passwords and other security features;
- Manage monitoring and recording activities;
- Track all administrative user activity;
- View current phone status via a real-time call activity display;
- Perform online queries; and
- Obtain comprehensive activity reports.

As provided for in the current contract (and in this new contract), the State does not, and will not pay for the telephones or the hardware, software, or maintenance services associated with the inmate pay station monitoring systems.

There is an overlap of 15 days between this contract and the current contract. This is necessary in order to transition services to the new contract.

A bid protest has been received on this contract dated November 13, 2003 from AT&T. The Department has denied the bid protest in a letter dated November 24, 2003. AT&T has not filed an appeal of the protest denial with the Maryland State Board of Contracts Appeals.

The Office of the State Comptroller has verified, under Control Number 03-2218-0001, that the recommended contractor has no known deficiencies in the payment of its Maryland tax obligations. Verification has also been obtained from the Comptroller's Office, or the Department of Assessments and Taxation, as applicable, that the contractor is appropriately registered to conduct business within the State to the extent required by the laws of Maryland.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

The contractor is a resident business under the guidelines of BPW Advisory P-003-95 Revised.

DBM REMARKS: Furnishing of long-term services are required to meet State needs; estimated requirements cover the period of the contract and are reasonably firm and continuing; and a multi-year contract will serve the best interests of the State by promoting economies in State procurement.

By approving this contract, the Board grants DBM the authority to approve the unilateral exercise of the renewal option(s) at the scheduled times as provided for in the contract, and directs that the exercise of each option renewal be reported on a DBM PAAR.

Approval recommended.

Board of Public Works Action - The above referenced Item was:

APPROVED

DISAPPROVED

DEFERRED

WITHDRAWN

WITH DISCUSSION

WITHOUT DISCUSSION

EXHIBIT 17



NOTICE OF AWARD

State Of Missouri
Office Of Administration
Division Of Purchasing And Materials Management
PO Box 809
Jefferson City, MO 65102
<http://www.oa.mo.gov/purch>

SOLICITATION NUMBER B2Z05070	CONTRACT TITLE Offender Telephone Service
CONTRACT NUMBER C205070001	CONTRACT PERIOD May 19, 2006 through May 18, 2011
REQUISITION NUMBER NR 300 2150000041	VENDOR NUMBER 9546154400 0
CONTRACTOR NAME AND ADDRESS Public Communications Services, Inc. 11859 Wilshire Blvd., Suite 600 Los Angeles, CA 90025	STATE AGENCY'S NAME AND ADDRESS Various Correctional Institutions Throughout The State of Missouri
ACCEPTED BY THE STATE OF MISSOURI AS FOLLOWS: The proposal submitted by Public Communications Services, Inc. in response to RFP B2Z05070 is accepted in its entirety, including Best and Final Offer #001 and #002, and the letters of clarification dated October 21, 2005 and December 13, 2005. The contract period shall be May 19, 2006 through May 18, 2011.	
BUYER John Stobbart	BUYER CONTACT INFORMATION E-Mail: John.Stobbart@oa.mo.gov Phone: (573) 751-3796 Fax: (573) 526-9818
SIGNATURE OF BUYER <i>John J. Stobbart</i>	DATE 5-19-06
DIRECTOR OF PURCHASING AND MATERIALS MANAGEMENT <i>James Miluski</i> James Miluski	



April 10, 2006

Attention: John Stobbart
Division of Purchasing and Materials Management
301 West High Street, Truman Building, Room 630
Jefferson City, MO 65101

Dear Mr. Stobbart:

PCS is honored to have the opportunity to respond to BAFO Request No. 002 and all associated revisions for the State of Missouri for Offender Telephone Services pursuant to your Request for Proposal B2Z05070. PCS has proposed the best equipment, technology, service and support available in today's marketplace, while providing the lowest possible call rates.

We are confident that our proposal provides the best value proposition to meet and exceed the State of Missouri's goals and objectives. We look forward to responding to any questions resulting from your review of the enclosed best and final offer. For additional information, please feel free to contact me at 310-954-3015 or by email at joe.pekarovic@teampcs.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Pekarovic". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.

Joe Pekarovic
Vice President of Sales

NOTE: The above are estimates only. The State of Missouri will not guarantee any quantity of calls or minutes.

☐ PCS has read and understands.

PARAGRAPH REVISED BY BAFO #002, REVISION #001

4.4.1 Cost: *The offeror must respond to Exhibit A with firm, fixed pricing for all applicable costs necessary to satisfy the requirements of the RFP. The price for basic ots stated shall be the contractor's charge per minute and set-up charge for collect calls, and shall be exclusive of any and all local, state and federal taxes/fees (I.E, LOCAL, STATE AND FEDERAL TAXES/FEES MAY BE PASSED ON TO THE CUSTOMER IN ADDITION TO THE OFFEROR'S PER MINUTE PRICES AND SET-UP CHARGE). Basic with option one debit calls shall be inclusive of any and all local, state, and federal taxes and/or fees (I.E, LOCAL, STATE, AND FEDERAL TAXES/FEES SHALL NOT BE ADDED TO THE FIRM, FIXED POSTALIZED PRICE PER MINUTE PAID FOR BY THE OFFENDER). Basic with option one pre-paid calls shall be exclusive of any and all local, state, and federal taxes and/or fees (I.E, LOCAL, STATE AND FEDERAL TAXES/FEES MAY BE PASSED ON TO THE CUSTOMER IN ADDITION TO THE OFFEROR'S FIRM, FIXED POSTALIZED PRICE PER MINUTE).* All other applicable costs and expenses necessary to satisfy the requirements of the RFP, including furnishing, installing, providing any necessary hardware, monitoring, maintaining and incurring the expense for the of installation of, and the ongoing monthly expense, through the life of the contract, for data circuits, separate from the bandwidth provided for the offender phone recording and monitoring system, at each of the institutions referenced in paragraph 3.1.8 must be included in the stated price. All prices quoted shall be firm, fixed for duration of the contract. The offeror shall provide the lowest firm fixed prices available to the called parties. Commissions from the call charges shall not be applicable nor shall any commission-like payments be made by the contractor to the State of Missouri or any other entity or party. In lieu of commission-like revenue received by the State of Missouri, the offeror should propose contract costs that take commissions otherwise paid and offset the contract costs to the called party. Unless stated herein, the state shall assume that absolutely no other costs, charges, or fees will be assessed to the state, the offender or the called party whatsoever, and that no other costs exist to satisfy the RFP's requirements. Therefore, the successful offeror shall be responsible for any additional costs.

☐ PCS has read and understands and will comply.

**EXHIBIT A
COST (PRICING SECTION)**

EXHIBIT REVISED BY BAFO #002, REVISION #001

A.1 REQUIRED PRICING: The offeror must state below the firm, fixed price for performing OTS services in accordance with the provisions and requirements stated herein, including furnishing, installing, providing any necessary hardware, monitoring, maintaining and incurring the expense for the of installation of and the ongoing monthly expense, through the life of the contract, for data circuits, separate from the bandwidth provided for the offender phone recording and monitoring system, at each of the institutions referenced in paragraph 3.1.8. All costs associated with providing the required services, including all travel and expenses to be incurred by contractor staff, must be included. The offeror must propose all items (001 through 010). Prices shall not include commissions to be paid to the State of Missouri (see RFP paragraph 4.4.1).

☐ PCS has read and understands.

The TeamPCS Full Disclosure Rate Plan

PARAGRAPH REVISED BY BAFO #002, REVISION #001

- a. **Basic OTS: Collect Calls:** shall be defined as where the outside party is requested to pay for the calls where the cost would be billed through a monthly invoice to the called party. Such prices shall be exclusive of taxes. The offeror must propose all items (001 through 008). The offeror must state the firm, fixed rates per minute and shall include all set up fees for all offender calls for the following service, exclusive of any and all local, state, and federal fees/taxes (***I.E, LOCAL, STATE AND FEDERAL TAXES/FEEES MAY BE PASSED ON TO THE CUSTOMER IN ADDITION TO THE OFFEROR'S PER MINUTE PRICES AND SET-UP CHARGE***).

ITEM NO.	Description	Unit of Measure	Firm Fixed Price
001	Local Call	Minute	\$0.10
002	Set-up Charge for Local Call	Call	\$1.00
003	Intralata Call	Minute	\$0.10
004	Set-up Charge for Intralata Call	Call	\$1.00
005	Interlata Call	Minute	\$0.10
006	Set-up Charge for Interlata Call	Call	\$1.00
007	Interstate Call	Minute	\$0.10
008	Set-up Charge for Interstate Call	Call	\$1.00

PARAGRAPH REVISED BY BAFO #002, REVISION #001

- b. **Basic OTS with option 1 features and functions for debit calls** where the offender will deposit money within the state run commissary. Price must be inclusive of taxes. The offeror must propose item 009. The offeror must state a firm, fixed all inclusive postalized price per minute, which must include any and all regulatory fees/surcharges, set up fees,

and any and all taxes, etc. (*I.E, LOCAL, STATE, AND FEDERAL TAXES/FEES SHALL NOT BE ADDED TO THE FIRM, FIXED POSTALIZED PRICE PER MINUTE PAID FOR BY THE OFFENDER*).

ITEM NO.	Description	Unit of Measure	Firm Fixed Postalized Price
009	Postalized Debit Call	Per Minute	\$0.10

PARAGRAPH REVISED BY BAFO #002, REVISION #001

- c. Basic OTS with option 1 features and functions for pre-paid calls, where the called party deposits money within the offeror's operated account. Price must be exclusive of taxes. The offeror must propose item 010. The offeror must state a firm, fixed all inclusive postalized price per minute, which shall be exclusive of any and all regulatory fees/surcharges, set up fees, and any and all taxes, etc: (*I.E, LOCAL, STATE AND FEDERAL TAXES/FEES MAY BE PASSED ON TO THE CUSTOMER IN ADDITION TO THE OFFEROR'S FIRM, FIXED POSTALIZED PRICE PER MINUTE*).

ITEM NO.	Description	Unit of Measure	Firm Fixed Postalized Price
010	Postalized Pre-paid Call	Per Minute	\$0.10

- d. **International Calls:** The offeror must propose rates for International calls. The offeror shall attach their proposed international callings rates. Prices for International calls will be subjectively evaluated within the area of Proposed Method of Performance.

PCS INTERNATIONAL CALLING RATES

ITEM NO.	Description	Unit of Measure	Firm Fixed Price
201	International Call	Minute	\$ 0.75
202	Set-up Charge for International Call	Call	\$ 0.50

EXHIBIT 18

AT&T COMMUNICATIONS
Adm. Rates and Tariffs
Bridgewater, NJ 08807
Issued: March 5, 1999

TARIFF F.C.C. NO. 27
4th Revised Page 9-1
Cancels 3rd Revised Page 9-1
Effective: March 6, 1999

CONSUMER TELECOMMUNICATIONS SERVICE

Section 9 - AT&T Prepaid Card Service

9.1. General - This section contains the regulations applicable to AT&T Prepaid Card Service (see 9.1.1.F. following, for location of rates applicable to this service).

9.1.1. AT&T Prepaid Card Service - AT&T Prepaid Card Service provides voice grade communications service for calls charged to an AT&T Prepaid Card.

The following types of calls may not be completed with the AT&T Prepaid Card Service:

- Calls to 500 numbers
- Calls to 700 numbers
- Calls to 800 numbers
- Calls to 900 numbers
- Directory Assistance calls (except as specified in 9.1.1.I.) C
- All Operator Services calls
- AT&T Conference calls (except as specified in 9.1.1.H.) C
- AT&T Busy Line Verification and Interrupt Services
- Calls requiring the quotation of time and charges
- High Seas Service

Certain Prepaid Cards purchased prior to January 9, 1998 do not have the capability to originate calls from international locations.

The terms, conditions and prices at the time of issuance apply to all prepaid cards issued under the SmartTalk brand prior to April 1, 1999. N

Except as may be specifically referenced therein, calls made utilizing AT&T Prepaid Card Service are not included in any AT&T Custom Network Services, Optional Calling Plans, Virtual Telecommunications Network Services or any other AT&T services or promotions.

AT&T Prepaid Card Service is available under two options, the AT&T Prepaid Card Service-Unit Option and AT&T Prepaid Card-Dollar Option, as described below.

A. Availability - AT&T Prepaid Card Service is available twenty-four hours a day, seven days a week from Dual Tone Multi Frequency phones. The number of available AT&T Prepaid Cards is subject to technical limitations. Such cards will be offered to Customers on a first come, first served basis.

B. Regulations - In addition to the regulations in Section 3, preceding, the following regulations apply:

1. AT&T Prepaid Card Service is accessed using the AT&T 800 number printed on the card.

2. All calls must be charged against an AT&T Prepaid Card that has a sufficient available balance.

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9.1.1.B. AT&T Prepaid Card Service - Regulations (continued)

3. A Customer's call will be interrupted with an announcement when the balance is about to be depleted. Such announcement will occur one minute before the balance will be depleted, based on the terminating location of the call. The Customer will be requested to enter another valid AT&T Prepaid Card number in order to continue the call.

4. Calls in progress will be terminated by the Company if the balance on the AT&T Prepaid Card is insufficient to continue the call and the Customer fails to enter the number of another valid AT&T Prepaid Card prior to termination.

9.1.1.C. Rate and Charge Application - AT&T Prepaid Card Service-Unit Option Prepaid Cards are available in various unit denominations. The AT&T Prepaid Card Service-Dollar Option Cards are available in various dollar denominations. These prices include taxes that are calculated based on usage. They do not include sales or excise taxes due at the point of purchase. AT&T Prepaid Card Service-Unit Option Cards will be sold at prices rounded to the nearest cent. AT&T Prepaid Card Service rates apply twenty-four hours per day, seven days per week. C

1. **AT&T Prepaid Card Service-Unit Option Cards** - The unit denominations may range from 15 units to 300 units, or as otherwise specified by the Company. Unit Option Prepaid Cards will be decremented the appropriate number of units for each minute or fractional part of a minute that a call continues.

2. **AT&T Prepaid Card Service-Dollar Option Cards** - The various dollar denominations may range from \$5.00 to \$50.00, or as otherwise specified by the Company. AT&T Prepaid Card Service-Dollar Option Cards will be decremented the appropriate Price Per Minute Usage Rates specified under Section 24.1.6.C., following that are in effect at the time the call is made. The Price Per Minute Usage Rates apply to each minute or fraction thereof for a call. Where the dollar value left on an AT&T Prepaid Card Service-Dollar Option Card is less than the lowest Price Per Minute for an AT&T Prepaid Card Service-Dollar Option Card, the card will be retired and the unused balance forfeited. AT&T Prepaid Card Service-Dollar Option Cards are not rechargeable unless otherwise expressly stated by AT&T at the time of purchase. Sx
Sx

D. Credit Allowances for Interruptions - A credit allowance for AT&T Prepaid Card Service is applicable to that portion of a call that is interrupted due to poor transmission, one-way transmission, or involuntary disconnection of the call. A Customer may also be granted credit for reaching a wrong number as described in Section 9.1.1.D.2. To receive the proper credit, the Customer must notify the Company at the designated Customer Service Number printed on the AT&T Prepaid Card and furnish the called number, the trouble experienced (e.g., cut-off, noisy circuit, reached wrong number, etc.), and the approximate time the call was placed. Sx

1. **Interruptions to Established Calls** - When a call is charged to an AT&T Prepaid Card that is interrupted due to cut-off, one-way transmission, or poor transmission conditions the Customer will receive credit equivalent to the number of calling units for one minute to the terminating location of the interrupted call if the card was established using an AT&T Prepaid Card Service-Unit Option Card. If the interrupted call was established using an AT&T Prepaid Card Service-Dollar Option Card, the Customer will receive credit equivalent to the Price Per Minute in effect for that call.

x Material filed under Transmittal No. 10989 became effective on March 20, 1998.

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D. Credit Allowances for Interruptions (continued)

2. **Wrong Numbers** - When a wrong number is reached, the Customer will receive credit if the Customer reports the situation promptly to the Company at the designated Customer Service number. If the wrong number is reached using an AT&T Prepaid Card Service-Unit Option Card the Customer will receive credit equivalent to the number of calling units for one minute to the terminating location of the call. If the wrong number was reached using an AT&T Prepaid Card Service-Dollar Option Card, the Customer will not receive any credit.

3. **When Credit Allowances Do Not Apply** - Credit allowances for calls pursuant to AT&T Prepaid Card Service do not apply for:

- Interruptions not reported to the Company,
- Interruptions that are due to the failure of power, equipment or systems not provided by the Company, or
- Interruptions caused by the failure of other services provided by this Company which are connected to AT&T Prepaid Card Service.

E. Collectible Cards - AT&T Prepaid Cards bearing special logos considered to be of a collectible nature may be offered to Customers at a price higher than the rates set forth in Section 24.1.6. following due to a premium value attached to the card which is independent of its value/rate as a mechanism for completing long distance calls. The tariff usage value of the card will be shown on one side of the card and applies to all calls made using the card. The independent or Collectible value may be displayed on the opposite side of the card.

F. AT&T Prepaid Card Service-Dollar Option - The AT&T Prepaid Card-Dollar Option is available in the following:

- AT&T Prepaid Card-Dollar Option 1*
- AT&T Prepaid Card-Dollar Option 2*
- AT&T Prepaid Card-Dollar Option 3
- AT&T Prepaid Card-Dollar Option 4
- AT&T Prepaid Card-Dollar Option 5*
- AT&T Prepaid Card-Dollar Option 6
- AT&T Prepaid Card-Dollar Option 7
- AT&T Prepaid Card-Dollar Option 8*
- AT&T Prepaid Card-Dollar Option 9
- AT&T Prepaid Card-Dollar Option 10

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1. AT&T Prepaid Card Service-Dollar Option 1

(a) **General** - AT&T Prepaid Card Service-Dollar Option 1 is subject to the same terms and conditions specified under Sections 9.1.1.A., 9.1.1.B., 9.1.1.C., 9.1.1.D. and 9.1.1.J.

(b). **Rates and Charges** - In addition to the Rates described in Section 9.1.1.J., below, the Public Payphone Surcharge specified under Section 8.1.8. applies when AT&T Prepaid Card Service-Dollar Option 1 calls are placed from a public or semi-public payphone.

* AT&T Prepaid Card Service-Dollar Option Cards 1,2,5 and 8 are no longer in circulation and have been discontinued.

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** All material on this page is new. **

9.1.1.F. AT&T Prepaid Card Service-Dollar Option (continued)

9. AT&T Prepaid Card Service-Dollar Option 9

(a) **General** - AT&T Prepaid Card Service-Dollar Option 9 is subject to the same terms and conditions specified under Sections 9.1.1.A., 9.1.1.B., 9.1.1.C., 9.1.1.D. and 9.1.1.J. An AT&T Prepaid Card Service-Dollar Option 9 Card expires 180 days after its initial use. Calls which originate from international countries/areas must be established by: 1) by dialing a special access number from virtually any station in a particular country; 2) by dialing a special number from a hotel room or U.S. military base Station that provides AT&T USADirect Service Access or 3) by using a specially designated AT&T USADirect Service telephone.

(b) **Rates and Charges** - In addition to the Rates described in Section 9.1.1.J., below, the Public Payphone Surcharge specified under Section 8.1.8. applies when AT&T Prepaid Card Service-Dollar Option 9 calls are placed from a public or semi-public payphone.

(c) **Usage Rates** - Usage rates described in Section 9.1.1.J., below, apply for calls placed using the AT&T Prepaid Card Service-Dollar Option 9 Card. The Initial period is the first minute or fraction thereof of the call. The Additional Period is each minute or fraction thereof which occurs after the initial period is complete. There is a Usage Rate for each Initial Period and each Additional Period.

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9.1.1.. AT&T Prepaid Card Service (continued)

G. Rechargeable Cards - Some AT&T Prepaid Cards (Unit Option Cards) have a feature whereby the Customer may purchase or "recharge" additional units of AT&T Prepaid Card Service to an existing prepaid card in increments of 60, 100, 200, and 300 units. In addition to the regulations set forth above, rechargeable cards are also subject to the following conditions and limitations:

- (1) Customers may purchase additional units using the recharge feature no more than twice in a 48-hour period.
- (2) Customers may purchase any combination of the unit increments shown in G. above but no more than 900 units or \$225 of AT&T Prepaid Card Service per recharge.
- (3) The Customer's AT&T account is in good standing.
- (4) The rates for a rechargeable card are the same as a non rechargeable card for the initial purchase. When the card is recharged, the recharge rates as shown in the rate table in Section 24.1.6.A. following apply
- (5) All units added through the recharge feature must be paid for by credit/charge card and will be added to the Customer's prepaid card within one day after the credit/charge card used by the Customer has been verified.

H. Conference Calling - Beginning April 1, 1999 on cards so equipped, Customers may arrange a three way (caller plus two other participants) conference. Cards will be decremented one unit for each minute of set up time plus three additional units for each minute of call duration. Set up time and call duration time which involve a fractional part of a minute will be rounded up to the next higher full minute.

I. "555" Directory - Beginning April 1, 1999 on cards so equipped, Customers may access NPA-555-1212 to obtain telephone listings. Cards will be decremented five (5) units per call.

J Rates - The rates for AT&T Prepaid Cards Unit Option Cards are listed in Section 24.1.6.A., following and the unit/minute rates for AT&T Prepaid Card Service Unit Option Cards calls are listed in Section 24.1.6.B., following. The rates for AT&T Prepaid Cards-Dollar Option Cards are listed as follows:

- | | |
|---------------------------------------|---------------------|
| • AT&T Prepaid Cards-Dollar Option 1 | Section 24.1.6.C.1. |
| • AT&T Prepaid Cards-Dollar Option 2 | Section 24.1.6.C.2. |
| • AT&T Prepaid Cards-Dollar Option 3 | Section 24.1.6.C.3. |
| • AT&T Prepaid Cards-Dollar Option 4 | Section 24.1.6.C.4. |
| • AT&T Prepaid Cards-Dollar Option 5 | Section 24.1.6.C.5. |
| • AT&T Prepaid Cards-Dollar Option 6 | Section 24.1.6.C.6. |
| • AT&T Prepaid Cards-Dollar Option 7 | Section 24.1.6.C.7. |
| • AT&T Prepaid Cards-Dollar Option 8 | Section 24.1.6.C.8 |
| • AT&T Prepaid Cards-Dollar Option 9 | Section 24.1.6.C.9 |
| • AT&T Prepaid Cards-Dollar Option 10 | Section 24.1.6.C.10 |

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24.1.6.C. AT&T Prepaid Card Service-Dollar Option Card - Usage Rates (continued)

9. AT&T Prepaid Card Service-Dollar Option 9 Card - Usage Rates

(a) Domestic Calls - The Usage Rate for Domestic Calls specified below is applied to each Initial Period and each Additional Period.

	<u>Initial Period</u>	<u>Additional Period</u>
Intra-United States (U.S. Mainland, Alaska, Guam, Hawaii, Puerto Rico/U.S. Virgin Islands, and CNMI)	\$.849	\$0.059

Excluded Calls:

- Intrastate
- Intra-U.S. Territory (Guam, CNMI, Puerto Rico/U.S. Virgin Islands)

(b) International Calls - The following Usage Rates apply for calls between the United States (including CNMI, Guam, Puerto Rico, and the U.S. Virgin Islands):

Country/Area	To the United States		From the United States	
	Initial Period	Each Add'l Period	Initial Period	Each Add'l Period
Afghanistan	N/A	N/A	\$3.09	\$2.10
Albania	\$3.50	\$3.50	\$1.54	\$0.55
Algeria	N/A	N/A	\$1.66	\$0.67
American Samoa	\$2.80	\$2.80	\$1.53	\$0.54
Andorra	\$2.10	\$2.10	\$1.43	\$0.44
Angola	\$4.55	\$4.55	\$1.80	\$0.81
Anquilla	\$2.10	\$2.10	\$2.04	\$1.05
Antarctica (Casey Base)	N/A	N/A	N/A	N/A
Antarctica (Scott Base)	N/A	N/A	N/A	N/A
Antiqua	\$2.10	\$2.10	\$1.87	\$0.88
Argentina	\$2.80	\$2.80	\$1.60	\$0.61
Armenia	\$3.15	\$3.15	\$2.01	\$1.02
Aruba	\$2.45	\$2.45	\$1.59	\$0.60
Ascension Island	N/A	N/A	\$2.27	\$1.28
Australia	\$2.27	\$1.78	\$1.17	\$0.18
Austria	\$2.55	\$2.06	\$1.21	\$0.22
Azerbaijan	N/A	N/A	\$1.74	\$0.75
Bahamas	\$1.75	\$1.75	\$1.43	\$0.44
Bahrain	\$3.67	\$3.18	\$2.18	\$1.19
Bangladesh	N/A	N/A	\$2.48	\$1.49
Barbados	\$2.10	\$2.10	\$2.04	\$1.05
Belarus	\$3.15	\$3.15	\$1.67	\$0.68
Belgium	\$1.99	\$1.50	\$1.16	\$0.17

EXHIBIT 19

TELECOMMUNICATIONS SERVICE
SECTION C- SERVICE DESCRIPTIONS AND RATES3. METERED USE SERVICE

- .26 Option Y (MCI PrePaid): Option Y is a prepaid calling card service that allows customers to acquire cards or Personal Identification Numbers (PINs) that are used to originate outbound direct dial calls via MCI WORLDCOM-provided toll-free numbers. (When used in connection with Option Y, the terms "card", "MCI PrePaid card," "Personal Identification Number," and "PIN" are used interchangeably throughout this tariff and are intended to mean the same thing). MCI PrePaid cards may be used to originate calls at any telephone in the U.S. Mainland, Alaska, Hawaii, the U.S. Virgin Islands, Guam and CNMI and to terminate calls in the U.S. Mainland, Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, CNMI and in any of the international locations specified in Section C-3.26112. Certain MCI PrePaid cards allow Customers or Authorized Users to pre-program up to six specific telephone numbers that can be reached by dialing a single number. All Option Y calls are rounded to the next higher full minute. Unless otherwise specified, for dollar-denominated cards, if the computed charge for a call includes a fraction of a cent, the charge is rounded to the nearest whole cent.

The date of activation of an MCI PrePaid card, and not the date a call is made, determines the charge in units of an MCI PrePaid card. The date a call is made, and not the date of activation of an MCI PrePaid card determines the number of units per-minute required for a call. Unless otherwise specified, for all dollar-denominated cards, the number of units on the card will be determined by dividing the dollar denomination appearing on the card by the per-unit charge and rounding up to the next whole unit.

Users of MCI PrePaid may have access to non-tariffed enhancements (e.g., information services).

- .261 Direct MCI PrePaid Card Sales: These MCI PrePaid cards are sold directly to customers for their use and the use of their Authorized Users.

- .2611 Unit Charge/Dollar Denomination: MCI PrePaid cards are available from the Company in various unit or dollar denominations with a per-unit charge of \$0.35.

- .26111 Domestic: For calls originating in the U.S. Mainland, Alaska, Hawaii, the U.S. Virgin Islands, Guam and CNMI and terminating in the U.S. Mainland, Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam and CNMI, one unit equals one minute (or fraction thereof) of calling.

- .26112 International: For calls originating in the U.S. Mainland, Alaska, Hawaii, the U.S. Virgin Islands, Guam and CNMI and terminating in the following international locations, the following number of units are required for one minute (or fraction thereof) of calling.

Country	Units/Minute	Country	Units/Minute
Afghanistan	19 I	Botswana	5 I
Albania	5 R	Brazil	4 I
Algeria	5 I	British Virgin Islands	4 I
American Samoa	5 I	Brunei	4 I
Andorra	3 R	Bulgaria	5 I
Angola	5 R	Burkina Faso	9 I
Anguilla	5	Burundi	7
Antarctica (Casey, Davis, Mawson, and Macquarie Island)	6 I	Cambodia	12 R
Antarctica (Scott Base)	2	Cameroon	9 I
Antigua (Barbuda)	5 I	Canada	2
Argentina	5	Cape Verde Islands	7 I
Armenia	7	Cayman Islands	3
Aruba	4 I	Central African Republic	11 I
Ascension Island	9 I	Chad	14 R
Australia (including Tasmania)	2	Chile	3
Austria	3	China	6 R
Azerbaijan	6 R	Christmas and Cocos Islands	2
Bahamas	3 I	Colombia	5
Bahrain	6	Comoros	8 R
Bangladesh	9	Congo	10 I
Barbados	5	Cook Island	14 I
Belarus	5 I	Costa Rica	4
Belgium	3	Croatia	4
Belize	6 I	Cuba	10 I
Benin	7 I	Cyprus	4
Bermuda	2	Czech Republic	4
Bhutan	7 I	Denmark	2
Bolivia	6	Diego Garcia	6 R
Bosnia-Herzegovina	5 R	Djibouti	9 I

TELECOMMUNICATIONS SERVICE
SECTION C- SERVICE DESCRIPTIONS AND RATES

3. METERED USE SERVICE.26 Option Y (MCI PrePaid) (Continued).262 Indirect MCI PrePaid Card Sales (Continued):.2623 Optional Calling Plans (Continued):.26233 Optional Calling Plan No. 4:

.262331 Dollar Denomination: Optional Calling Plan No. 4 MCI PrePaid cards are available from the Company in various denominations. In lieu of standard tariffed Option Y provisions, the Optional Calling Plan No. 4 MCI PrePaid card shall be sold in dollar-denominations only, and per-call charges shall be decremented from the card in the per-call charges in effect at the time a call is made.

.2623311 Domestic: For calls originating in the U.S. Mainland, Alaska, Hawaii, the U.S. Virgin Islands and Guam and terminating in the U.S. Mainland, Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam and CNMI, customers will be charged \$0.03 per-minute of use and a \$0.70 per-call surcharge.

.2623312 International: For calls originating in the U.S. Mainland, Alaska, Hawaii, the U.S. Virgin Islands and Guam and terminating in the following international locations, customers will be charged the following per-minute usage charges and additional per-call surcharges:

Country	Per-Call Surcharge	Per-Minute Rate	Country	Per-Call Surcharge	Per-Minute Rate
Afghanistan	\$1.99	\$2.00	Bosnia-Herzegovina	\$1.99	\$0.31
Albania	1.99	0.08	Botswana	1.99	0.06
Algeria	1.99	0.45	Brazil	1.99	0.10
American Samoa	1.99	0.18	British Virgin Islands	1.99	0.54
Andorra	1.99	0.40	Brunei	1.99	0.39
Angola	1.99	0.05	Bulgaria	1.99	0.34
Anguilla	1.99	0.30	Burkina Faso	1.99	0.93
Antarctica (Casey, Davis, Mawson and Macquarie Island)	1.99	1.00	Burundi	1.99	0.82
Antarctica (Scott Base)	1.99	0.04	Cambodia	1.99	1.90
Antigua (Barbuda)	1.99	0.53	Cameroon	1.99	1.02
Argentina	1.99	0.36	Canada	1.99	0.03
Armenia	1.99	1.17	Cape Verde Islands	1.99	0.60
Aruba	1.99	0.22	Cayman Islands	1.99	0.03
Ascension Island	1.99	0.90	Central African Republic	1.99	1.85
Australia			Chad	1.99	2.25
(including Tasmania)	1.99	0.04	Chile	1.99	0.07
Austria	1.99	0.05	China	1.99	0.73
Azerbaijan	1.99	0.90	Christmas Island	1.99	0.04
Bahamas	1.99	0.02	Cocos Island	1.99	0.04
Bahrain	1.99	0.65	Colombia	1.99	0.11
Bangladesh	1.99	1.18	Comoros	1.99	1.75
Barbados	1.99	0.48	Congo	1.99	0.95
Belarus	1.99	0.58	Cook Islands	1.99	1.35
Belgium	1.99	0.02	Costa Rica	1.99	0.35
Belize	1.99	0.65	Croatia	1.99	0.30
Benin	1.99	0.74	Cuba	1.99	1.00
Bermuda	1.99	0.02	Cyprus	1.99	0.32
Bhutan	1.99	1.19	Czech Republic	1.99	0.19
Bolivia	1.99	0.64	Denmark	1.99	0.01
			Diego Garcia	1.99	0.38
			Djibouti	1.99	1.10

EXHIBIT 20

TELECOMMUNICATIONS SERVICE
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.2623101 Dollar Denomination: Optional Calling Plan No. 11 MCI PrePaid cards are available in \$5, \$10 and \$20 denominations. In lieu of standard tariffed Option Y provisions, the Optional Calling Plan No. 11 MCI PrePaid card shall be sold in dollar-denominations only, and per-call charges shall be decremented from the card in an amount equal to the per-call charges in effect at the time a call is made.

.26231011 Domestic: For calls originating in the U.S. Mainland, Alaska, Hawaii, the U.S. Virgin Islands and Guam and terminating in the U.S. Mainland, Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam and CNMI, customers will be charged \$0.029 per-minute of use and a \$0.50 per-call surcharge.

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.26231012 International: For calls originating in the U.S. Mainland, Alaska, Hawaii, the U.S. Virgin Islands and Guam and terminating in the following international locations, customers will be charged the following per-minute usage charges and a \$2.00 per-call surcharge:

<u>Country</u>	<u>Rate</u>		<u>Country</u>	<u>Rate</u>	<u>Country</u>	<u>Rate</u>
Afghanistan	\$2.50	I	Bolivia	\$1.28	Diego Garcia	\$0.84
Albania	0.50		Bosnia-Herzegovina	0.62	Djibouti	2.20
Algeria	0.70		Botswana	0.46	Dominica	0.96
American Samoa	0.36		Brazil	0.26	Dominican Republic	0.19
Andorra	0.38		British Virgin Islands	0.66	Easter Island	0.36
Angola	0.52		Brunei	0.60	Ecuador	0.72
Anguilla	0.60		Bulgaria	0.68	Egypt	1.08
Antarctica (Casey, Davis, Mawson and Macquarie Island)	1.00		Burkina Faso	1.78	El Salvador	0.38
Antarctica (Scott Base)	0.08		Burundi	1.20	Equatorial Guinea	2.00
Antigua (Barbuda)	0.78		Cambodia	2.38	Eritrea	2.98
Argentina	0.62		Cameroon	1.16	Estonia	0.36
Armenia	1.50		Canada	0.06	Ethiopia	1.78
Aruba	0.44		Cape Verde Islands	1.20	Faeroe Islands	1.20
Ascension Island	1.78		Cayman Islands	0.24	Falkland Islands	1.00
Australia (including Tasmania)	0.08		Central African Republic	2.58	Fiji Islands	0.99
Austria	0.10		Chad	2.50	Finland	0.13
Azerbaijan	1.80		Chile	0.36	France	0.06
Bahamas	0.20		China	0.50	French Antilles (including Martinique, St. Barthelemy and St. Martin)	0.54
Bahrain	1.58		Christmas Island	0.08	French Guiana	0.78
Bangladesh	1.58		Cocos Island	0.08	French Polynesia	1.08
Barbados	0.96		Colombia	0.50	Gabon	0.90
Belarus	0.96		Comoros	1.98	Gambia	0.65
Belgium	0.04		Congo	1.70	Georgia	0.79
Belize	1.18		Cook Islands	2.70	Germany	0.03
Benin	1.34		Costa Rica	0.70	Ghana	0.66
Bermuda	0.08		Croatia	0.58	Gibraltar	0.34
Bhutan	1.58		Cuba	1.52	Greece	0.15
			Cyprus	0.50	Greenland	0.39
			Czech Republic	0.38		
			Denmark	0.09		

EXHIBIT 21

TELECOMMUNICATIONS SERVICE
SECTION C - SERVICE DESCRIPTIONS AND RATES

3. METERED USE SERVICE (Continued).21 Option T (Feature Card Services) (Continued).211 Usage Charges (Continued):

.21112 Basic Calling Card Option 3: Customers who subscribe to Basic Calling Card Option 3 will receive the following benefits, except that the benefits set forth in Section C-3.211123 under this Option are not available to customers who on or before November 1, 2000 subscribe to Metered Use Service Option A (Execunet) and: Option A International Calling Plan 1, as set forth in Section C-3.025115; Option A International Calling Plan 2, as set forth in Section C-3.025116; Option A International Savings Plan 2, as set forth in Section C-3.02523; Option A International Savings Plan 3, as set forth in Section C-3.02524; Option A International Savings Plan 4, as set forth in Section C-3.02526; Option A International Savings Plan 5, as set forth in Section C-3.02527; Option A International Savings Plan 6, as set forth in Section C-3.02528; Option A International Savings Plan 7, as set forth in Section C-3.02529; Option A International Savings Plan 8, as set forth in Section C-3.02530; or, Option A International Savings Plan 9, as set forth in Section C-3.02531.

.211121 Monthly Recurring Charge: A \$1.00 monthly recurring charge will apply.

.211122 Domestic Usage Charges and Surcharges: Customers will be charged \$0.15 per minute, and the Company will waive per-call Access Surcharges, for Option T usage which originates in the U.S. Mainland, Alaska, Hawaii and the U.S. Virgin Islands and terminates in the U.S. Mainland, Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam and CNMI.

.211123 International Usage Charges: Customers will be charged the following per-minute rates for Option T usage which originates in the U.S. Mainland, Alaska and Hawaii and terminates in the following locations:

<u>Country</u>	<u>Per-Minute</u>	<u>Country</u>	<u>Per-Minute</u>
Afghanistan	\$1.88	Burkina Faso	\$1.19
Albania	1.26	Burundi	2.13
Algeria	0.81	Cambodia	2.59
American Samoa	0.44	Cameroon	1.13
Andorra	0.57	Canada	0.09
Angola	1.69	Cape Verde Islands	0.95
Anguilla	0.68	Cayman Islands	0.37
Antarctica (Casey, Davis Mawson, and Macquarie Island)	1.94	Central African Republic	1.69
Antarctica (Scott Base)	0.16	Chad	2.83
Antigua (Barbuda)	0.53	Chile	0.39
Argentina	0.50	China	0.45
Armenia	0.77	Christmas Island	0.16
Aruba	0.56	Cocos Island	0.16
Ascension Island	1.33	Colombia	0.48
Australia (including Tasmania)	0.17	Comoros	3.94
Austria	0.16	Congo	1.29
Azerbaijan	0.97	Cook Islands	1.87
Bahamas	0.39	Costa Rica	0.40
Bahrain	0.78	Croatia	0.58
Bangladesh	0.62	Cuba	0.70
Barbados	0.59	Cyprus	0.63
Belarus	0.62	Czech Republic	0.63
Belgium	0.16	Denmark	0.16
Belize	0.83	Diego Garcia	1.65
Benin	0.77	Djibouti	1.10
Bermuda	0.35	Dominica	0.58
Bhutan	2.12	Dominican Republic	0.44
Bolivia	0.58	Easter Island	0.39
Bosnia-Herzegovina	0.84	Ecuador	0.50
Botswana	0.96	Egypt	0.51
Brazil	0.36	El Salvador	0.52
British Virgin Islands	0.56	Equatorial Guinea	2.92
Brunei	0.99	Eritrea	1.42
Bulgaria	0.68	Estonia	0.81
		Ethiopia	1.12
		Faeroe Islands	0.60
		Falkland Islands	1.35

ALL MATERIAL ON THIS PAGE IS NEW.

EXHIBIT 22

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

In the Matter of:)	
)	
Implementation of Pay Telephone)	
Reclassification and Compensation Provisions)	CC Docket No. 96-128
of the Telecommunications Act of 1996)	
)	
Petition for Rulemaking or, in the)	
Alternative, Petition to Address Referral)	DA 03-4027
Issues In Pending Rulemaking)	

REPLY DECLARATION OF DOUGLAS A. DAWSON

Douglas A. Dawson declares as follows:

INTRODUCTION

1. My name is Douglas A. Dawson, and I am the President of CCG Consulting, Inc. (“CCG”), located at 6811 Kenilworth Ave., Suite 300, Riverdale, Maryland, 20737. I previously filed an affidavit in this proceeding in support of the Petition for Rulemaking submitted by Martha Wright, *et al.* (“Petitioners”) in this docket.

2. In reviewing the record regarding the Petition for Rulemaking (“Wright Petition”), the Commission should keep in mind that the goal of the Wright Petition and my previous affidavit was to show that there are reasonable alternatives to the current exclusive service arrangements available for providing prison calling that would drive down long distance rates charged to prisoners and families of prisoners. I am not suggesting that the alternative set forth in the Wright Petition and my previous affidavit is the only possible solution, but, rather, constitutes at least one reasonable alternative. Many parties have criticized the proposal, under which an underlying inmate telephone system provider would process all inmate calls and

28.

MCI endeavored to prove that costs are as high as rates.⁴¹ The MCI filing showed costs for prison calling as follows:

	<u>Cost</u>	<u>Per Minute</u>
Minutes		6,797,500
Depreciation, Tax, Profits	\$ 160,186	\$ 0.024
Maintenance	\$ 52,140	\$ 0.008
Billing	\$ 110,459	\$ 0.016
Uncollectibles	\$ 773,215	\$ 0.114
Unbillables	\$ 110,459	\$ 0.016

⁴¹ See MCI Comments at 26-30.

GSA	\$ 406,692	\$ 0.060
LD termination	\$ 509,812	\$ 0.075
Annual Storage	\$ 69,000	\$ 0.010
T1s	\$ 14,400	\$ 0.002
Commission	<u>\$2,209,187</u>	<u>\$ 0.325</u>
Total Expenses	\$4,415,552	\$ 0.650

These are MCI's estimates of costs for generic prison calling, not for debit calling specifically.

A few of these cost factors do not apply to debit calling. There should be no cost of uncollectibles with debit calling. Debit calls would be allowed only if there were already sufficient funds in the pre-paid account. This is also true for unbillables, if the debit system is run properly. Commissions should also be eliminated, since they are not a legitimate direct cost of providing calling but are amounts that must be paid to the prisons out of profits. Removing the costs that do not apply to debit calling leaves MCI with an adjusted estimate of the cost for debit calling as follows:

	<u>Cost</u>	<u>Per Minute</u>
Minutes		6,797,500
Depreciation, Tax, Profits	\$ 160,186	\$ 0.024
Maintenance	\$ 52,140	\$ 0.008
Billing	\$ 110,459	\$ 0.016
GSA	\$ 406,692	\$ 0.060
LD termination	\$ 509,812	\$ 0.075
Annual Storage	\$ 69,000	\$ 0.010
T1s	<u>\$ 14,400</u>	<u>\$ 0.002</u>
Total Expenses	\$1,322,690	\$ 0.195

29. A few of MCI's remaining costs must also be challenged. The most glaring overstatement of costs is the cost of \$0.075 per minute for terminating a long distance call. MCI is one of the largest IXC's in the country, and it owns and operates its own long distance network. Subsequent to filing my original affidavit, my company has become a long distance agent, and I

now sell wholesale long distance minutes to some of my clients. One of the products in the portfolio I am reselling is MCI long distance, and I can buy the same type of MCI minutes as are being used in this example (delivered to MCI over a T1 line) for around \$0.02 per minute as a wholesaler. I assume that MCI is making a profit at that wholesale rate, and I therefore estimate its actual cost to be closer to \$0.01 per minute. In the recalculation of MCI's estimate shown below, I was conservative and allowed the \$0.02 cost. MCI cannot really expect to be taken seriously in claiming long distance termination costs of \$0.075 per minute in today's environment. That figure apparently was driven by the need to justify the rate of \$0.65 per minute.

30. The cost of billing for debit calls also would be far less than cited by MCI. With collect calls, MCI has to print and mail actual bills to customers, and its estimate of billing cost is reasonable in a collect system. With a debit system, the transaction would be done by a settlement process between the transport carrier and the underlying prison provider or other entity handling the debit accounts. Since these calls would not be handed off to MCI until it was verified that there were sufficient funds in the debit account, there should not be any substantial billing costs. The only cost arises from electronically settling the bill between MCI and the entity handling the debit account, which could not be generously estimated to be more than 20 percent of what MCI is claiming.

31. MCI's claimed overhead (GSA) costs of \$400,000 annually to oversee the calling from a prison with less than 100 phones and with only 7 million annual minutes is extremely high. Compare this to MCI's cited maintenance costs (the direct technical employees) of only \$50,000 per year. MCI's GSA estimate is not remotely reasonable and apparently is inflated in order to back into a high calling cost of \$0.65 per minute. The GSA estimate of \$130,000 per year in my previous affidavit is far more reasonable (and is still generously high, based on my experience). It certainly is not reasonable for GSA to be greater than direct costs, as reflected in MCI's estimates.

32. Finally, I am not going to reduce it, but MCI has claimed a cost that was not mentioned by the other prison providers. MCI states that there is a cost of \$69,000 per year to provide annual storage of records. Since long distance call records and billing records are generally kept as database records, it seems doubtful that MCI spends this much to keep those records. There are also storage costs for keeping the recordings of all of the calls made by prisoners. As stated in my previous affidavit, this is generally a hardware cost and not an expense, and MCI's estimate seems very high for just one prison. For purposes of this analysis, however, I will assume that expense.

33. The adjustments to MCI's numbers discussed above yield a cost of debit calling quite similar to the estimate in my original affidavit (and very different from MCI's inflated \$0.65 per minute):

	<u>Cost</u>	<u>Per Minute</u>
Minutes		6,797,500
Depreciation, Tax, Profits	\$ 160,186	\$ 0.024
Maintenance	\$ 52,140	\$ 0.008
Billing	\$ 22,092	\$ 0.003
GSA	\$ 130,000	\$ 0.019
LD termination	\$ 135,950	\$ 0.020
Annual Storage	\$ 69,000	\$ 0.010
Tls	<u>\$ 14,400</u>	<u>\$ 0.002</u>
Total Expenses	\$ 583,768	\$ 0.086

EXHIBIT 23

EXHIBIT 24

Subject: Inmate Calling and Public Pay Telephone Services

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. Identification and Definitions.

NH
03301

1.1 State Agency Name <u>Administrative Services</u>		1.2 State Agency Address <u>25 Capitol Street, Room 408, Concord,</u>	
1.3 Contractor Name <u>Public Communication Services</u>		1.4 Contractor Address <u>11859 Wilshire Blvd., 6th</u>	
1.5 Account No.	1.6 Completion Date <u>8/22/2003</u>	1.7 Audit Date	1.8 Price Limitation <u>N/A</u>
1.9 Contracting Officer for State Agency <u>Dennis J. Leclerc</u>		1.10 State Agency Telephone Number <u>(603) 271-2888</u>	
1.11 Contractor Signature <u>[Signature]</u>		1.12 Name & Title of Contractor Signor <u>Paul Jennings C.F.O.</u>	
1.13 Acknowledgment: State of <u>California</u> , County of <u>Los Angeles</u>			
On <u>August 14, 2003</u> before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <u>[Signature]</u>		Commission # <u>1225417</u> Notary Public - California Los Angeles County My Comm. Expires Jun 21, 2003	
1.13.2 Name & Title of Notary Public or Justice of the Peace <u>Karen Rivera, Notary Public</u>			
1.14 State Agency Signature(s) <u>Ronald S. Hill</u>		1.15 Name/Title of State Agency Signor(s) <u>Donald S. Hill, Commissioner Administrative Services</u>	
1.16 Approval by Department of Personnel (Rate of Compensation for Individual Consultants) By: <u>N/A</u> Director, On:			
1.17 Approval by Attorney General (Form, Substance and Execution) By: <u>[Signature]</u> Assistant Attorney General, On: <u>8/17/00</u>			
1.18 Approval by the Governor and Council By: <u>[Signature]</u> On: <u>8/23/00</u>			
2. EMPLOYMENT OF CONTRACTOR SERVICES TO BE PERFORMED. The State of New Hampshire hereby contracts with the Contractor identified in block 1.3 ("the Contractor") to perform, and the Contractor shall perform, that work or sale of goods, or both, identified and more particularly described in EXHIBIT A incorporated herein ("the Services").			
3. EFFECTIVE DATE: COMPLETION OF SERVICES. 3.1 This agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Council of the State of New Hampshire approve this agreement, ("the Effective Date"). 3.2 If the date for commencement in Exhibit A precedes the Effective Date all services performed by Contractor between the commencement date and the Effective Date shall be performed at the sole risk of the contractor and in the event that this Agreement does not become effective, the State shall be under no obligation to pay the contractor for any costs incurred or services performed; however that if this Agreement becomes effective all costs incurred prior to the effective date shall be paid under the terms of this Agreement. All services must be completed by the date specified in block 1.6.			
4. CONDITIONAL NATURE OF AGREEMENT. Notwithstanding anything in this agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the account identified in block 1.5 in the event funds in that account are reduced or unavailable.			

- 4.18 Power backup (UPS or battery with line conditioning) for up to 15 minutes in the event of power failure must be provided.
- 4.19 The Contractor must provide hard wired, switched disconnect of each individual telephone by State employees within the observation room for each bank of telephones.
- 4.20 Contractor shall provide high quality transmission service. Service shall be verified by a test call to an industry standard milliwatt tone and quiet generated in a facility within a selected North American NXX/NPA, and measurements taken regarding tone loss and line noise. Readings must be within 0 to -10 for loss and lower than -20dbm for noise. All other readings shall be considered substandard.
- 4.21 Credit for calls shall be issued when a caller attempts to place a call, does not get connected, and yet is billed; or when a call is terminated within 30 seconds of call initiation, due to substandard transmission quality, and a second attempt is made.
- 4.22 The system shall provide for a toll free service, allowing inmates to dial an on site investigative report telephone number. This call shall not require the use of voice identification or PIN.
- 4.23 The system shall allow an automated call block feature, permitting the caller to block their number from being dialed in the future. The called party simply dials a single digit DTMF code once the message that the call received is from an facility and the calling inmate name is played. A record is generated and the system administrator is notified of the blockage. The system automatically blocks the call. The administrator may change the denial operation at any time via the administrative terminal.
- 4.24 The system shall constantly monitor the inmate phone for attempts to manipulate the switchhook in order to bypass system controls. Any such attempt will result in call disconnection. At no time will the inmate reach outside dial tone or operator assistance.
- 4.25 Calls shall be restricted to collect only. Inmates shall be prohibited from dialing: 911, 411, 555-1212, 0-, 00-, 700, 976, 900, 888, 800, 10XXX, 950, in order to ensure that there is no possibility of inmate live operator access. In addition, the system shall be equipped with virtually unlimited capacity for individual blocked numbers which can be added on-site via one of the administrative terminals.
- 4.26 The system must require that the inmate hang up following each call in order to place another call. When the first call is complete, the phone becomes inoperable until it is placed on-hook again.
- 4.27 The system shall be provided with two methods to quickly shut down all telephones during an emergency: Administrative terminal and mechanical cut off switches. Existing switches may be used, but the contractor must insure proper operation maintenance. These manual switches shall override any electronic or preprogrammed on-off parameters. These switches will be installed in a controlled area (Presumably the Control Room). An officer from The State of New Hampshire Department of Corrections can shut off individual phones, all phones in a POD or all phones at the facility with one switch.
- 4.28 The system shall offer both rotary and touch tone call acceptance
- 4.29 The system shall be fully compatible with TTY/TDD services and meet all requirements of the American with Disabilities Act. This is inclusive in telephone set location and installation.

5 CALL SEQUENCE

This sections defines sequence of events of initiating inmate call.

- 5.1 Caller lifts handset.
 - 5.2 Caller receives a repeated message to choose between English, Spanish or French, each in the appropriate language.
-

- 8.0 For Public Pay Telephone Services, local exchange calling shall not incur per minute charges for all calls up to and including three minutes (180 seconds). Only the cost to establish a call shall apply. For calls lasting longer than three minutes, per minute charges may be applied for the fourth and successive minutes.
- 9.0 For all services, charges shall not be incurred until call is accepted, connection is complete, and two way conversation has been completely established.

Contractor rates for services nationally shall not exceed the following rates. **NO OTHER FEES OR CHARGES SHALL BE ALLOWED. ALL PUC, FCC OR OTHER JURISDICTIONAL AUTHORITY MANDATED COSTS (FEES, TAXES OR OTHERWISE) ARE INCLUDED WITHIN THE LISTED RATES.** Failure to comply with this requirement constitutes default under this agreement.

Inmate Calling

- | | | |
|--|---------------|------------|
| (a) Cost to establish a call (Only cost for local calling): | <u>\$1.45</u> | per call |
| (b) Flat rate per minute for all national interLATA calling: | <u>\$.20</u> | per minute |
| (c) Flat rate per minute for all intraLATA calling | <u>\$.15</u> | per minute |

Public Pay Telephone

- | | | |
|--|---------------|------------|
| (d) Cost to establish a call (Only cost for local calling): | <u>\$.35</u> | per call |
| (e) Flat rate per minute for all national interLATA calling: | <u>\$.25</u> | per minute |
| (f) Flat rate per minute for all intraLATA calling | <u>\$.15</u> | per minute |
-

**SECOND AMENDMENT
TO
INMATE CALLING AND PUBLIC PAY TELEPHONE SERVICES**

It is hereby agreed that the contract approved by Governor & Council on August 23, 2000 and as amended on January 24, 2001 herein collectively referred to as the "Agreement", between Public Communications Services, as "Contractor" and the Department of Administrative Services as "State", to provide Inmate Calling Services for the New Hampshire State Prison for Men in Concord, the New Hampshire State Prison for Women in Goffstown, the Lakes Region Facility in Laconia, and the Youth Development Center in Manchester, and provide Public Pay Telephones at multiple locations throughout the state is amended as follows:

1. Delete in its entirety section 1.6 and substitute the following:
The Completion Date: August 22, 2006.
2. Delete in its entirety Exhibit A, Section A, Paragraph 1. Term and substitute the following:
The term of this contract shall be from August 23, 2000 to August 22, 2006.
3. Delete Exhibit A, Section B, Paragraph 10.1 in its entirety and substitute therefore the following:
Contractor shall provide PC(s) per DOC site as noted:
Concord Facility: Six (6) PCs in the Internal Affairs Office, Administrative Wing;
Lakes Region Facility, Laconia: One (1) PC in the Investigation Office adjacent to Rooms 126 and 127;
Goffstown Facility: One (1) PC in the Internal Affairs Office.
4. Delete Exhibit B, Paragraph 1.0 in its entirety and substitute therefore the following:
18% commissions on gross usage of Inmate Telephones and 20 % commissions on gross usage of Public Pay Telephones shall be paid to the State on a month to month basis, including the time period from the first day of the month through the last day of the month. Payment shall be received by the State no later than the 15th of the month following services. Deductions for any costs associated with services provided, uncollected calls or un-billed calls shall not be permitted.
5. Delete Exhibit B, Paragraph 6.0 and substitute the following:
6.0 For Public Pay Telephone Services, the lowest rate available from any major international carrier for all calls outside of the US for same type service shall determine the maximum rate to be charged to users of telephones covered under this contract. Contractor shall not increase per minute call costs nor exceed a \$.50 surcharge to establish such calls.
6. Delete Exhibit B, Public Pay Telephone (d) rates and substitute the following:
(d) Cost to establish a call (Only cost for local calling): \$.50 per call
7. All other provisions of the "Agreement", approved by Governor and Council on August 23, 2000 and amended on January 24, 2001, shall remain in full force and effect.

PUBLIC COMMUNICATIONS SERVICES,
INC.

By: [Signature]
Paul Jennings
(Print Name)

Title: Chief Executive Officer

Date: June 27, 2003

NOTARY PUBLIC/JUSTICE OF THE PEACE

On the 27th day of June, 2003,
There appeared before me, the state and county
foresaid a person who satisfactorily identified himself
as

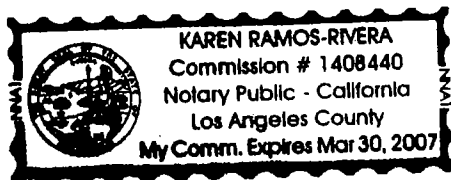
Paul Jennings

And acknowledge that he executed this document
indicated above.

In witness thereof, I hereunto set my hand and
official seal.

Karen Ramos-Rivera
(Notary Public/Justice of the Peace)

My commission expires: March 30, 2007
June 27, 2003
(Date)



STATE OF NEW HAMPSHIRE

By: [Signature]
Donald S. Hill
(Print Name)

Title: Commissioner
Department of Administrative Services

Date: 7/15/03

OFFICE OF THE ATTORNEY GENERAL

By: [Signature]
(Print Name)

Title: Sr. A. A. 6

Date: 7/31/03

The foregoing contract was approved by the
Governor and Council of New Hampshire on
AUG 13 2003, 2003.

Signed: [Signature]

Title: **DEPUTY SECRETARY OF STATE**

EXHIBIT 24

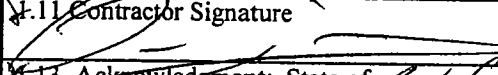

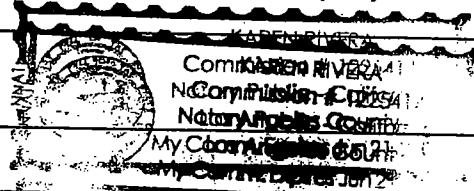
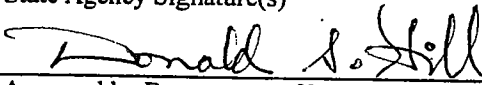
Subject: Inmate Calling Services, Northern Correctional Facility, Berlin, NH

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS


1. Identification and Definitions.

1.1 State Agency Name <u>Administrative Services</u>		1.2 State Agency Address <u>25 Capitol Street, Room 408</u> <u>Concord, N.H. 03301</u>	
1.3 Contractor Name <u>Public Communications Services</u>		1.4 Contractor Address <u>11859 Wilshire Boulevard</u> <u>Suite 600, Los Angeles, CA 90025</u>	
1.5 Account No.	1.6 Completion Date <u>12/14/2002</u>	1.7 Audit Date	1.8 Price Limitation <u>N/A</u>
1.9 Contracting Officer for State Agency <u>Michael P. Connor</u>		1.10 State Agency Telephone Number <u>(603) 271-3148</u>	
1.11 Contractor Signature 		1.12 Name & Title of Contractor Signor <u>Paul Jennings CEO</u>	
1.13 Acknowledgment: State of <u>California</u> , County of <u>Los Angeles</u> On <u>Nov. 30, 1999</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name & Title of Notary Public or Justice of the Peace <u>Karen Rivera, Notary Public</u>			
1.14 State Agency Signature(s) 		1.15 Name/Title of State Agency Signor(s) <u>Donald S. Hill, Commissioner</u> <u>Administrative Services</u>	

1.16 Approval by Department of Personnel (Rate of Compensation for Individual Consultants)

By: _____ Director, On: _____

1.17 Approval by Attorney General (Form, Substance and Execution)

By:  Assistant Attorney General, On: 12/9/99

1.18 Approval by the Governor and Council

By:  On: 12/15/99

2. EMPLOYMENT OF CONTRACTOR OR SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("the State"), engages contractor identified in block 1.3 ("the Contractor") to perform, and the Contractor shall perform, that work or sale of goods, or both, identified and more particularly described in EXHIBIT A incorporated herein ("the Services").

3. EFFECTIVE DATE: COMPLETION OF SERVICES.

3.1 This agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Council of the State of New Hampshire approve this agreement, ("the Effective Date").

3.2 If the date for commencement in Exhibit A precedes the Effective Date all services performed by Contractor between the commencement date and the Effective Date shall be performed at the sole risk of the contractor and in the event that this Agreement does not become effective, the State shall be under no obligation to pay the contractor for any costs incurred or services performed; however that if this Agreement becomes effective all costs incurred prior to the effective date shall be paid under the terms of this Agreement. All services must be completed by the date specified in block 1.6.

4. CONDITIONAL NATURE OF AGREEMENT. Notwithstanding anything in this agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the account identified in block 1.5 in the event funds in that account are reduced or unavailable.

EXHIBIT A

SERVICES

The Contractor shall install and maintain a completely provisioned 53 telephone inmate calling service including all equipment and facilities necessary to insure operation and uninterrupted service at the Northern NH Correctional Facility (NHHCF) located on 192 East Milan Road in Berlin, New Hampshire. Telephone locations at initial installation shall be those listed in Appendix A.

1.0 GENERAL PROVISIONS

- 1.1 All services shall be coordinated directly through the Department of Administrative Services Telecommunications Section. The administrating office address is:
- Dept. of Administrative Services, Telecommunications Section
Room 405
25 Capitol Street
Concord, NH 03301
Telephone 603-271-2888
Fax: 603-271-1115
- 1.2 The Contractor shall within five (5) days of contract initiation notify the Telecommunications Section, in writing of the names, addresses and telephone numbers of the principal contact(s) for:
- trouble-shooting and routine repairs
 - major outage/trouble reports
 - escalation procedures
 - commission payments and accounting records
 - terms and conditions
- 1.3 The Contractor shall provide written notice to the Telecommunications Section of any changes of contact personnel and/or telephone numbers.
- 1.4 Contractor employees shall in all respects be independent of the State and in no way considered employees of the State.
- 1.5 The Contractor shall retain ownership of all equipment throughout the duration of the contract. All equipment and services shall remain in operation from the commencement of the contract to the initiation of a future contract. In the event that a replacement subsequent contract is not awarded to the same Contractor, the existing Contractor shall supply all equipment and services for a period of up to 90 calendar days beyond the contract termination date. The State shall bear no costs for the preparation of bids, the installation of new services, or the removal and transfer of existing services. All terms of the initial contract other than time duration shall remain in effect.
- 1.6 Bidders must retain all licenses, registration and permits required by Federal and State laws for performances of this contract throughout the duration of this contract.
-

Inmate Calling Services

- 15.21 Stations must be armored, coinless phones designed for use in correctional facilities. Coin phones or phones requiring local power are not acceptable. Phones must be dumb stations with a minimum of electronics. Intelligence must reside within the ICP.
- 15.22 Telephone stations must include stain resistant metal casing, metal armored handset cord, armored handset, moisture resistant keypad and concealed fittings to prevent inmate tampering.
- 15.23 Telephone handset transmitter and receiver must be protected from puncture by metal grids placed directly over each.
- 15.24 System must be remotely bootable.
- 15.25 Power backup (UPS or battery with line conditioning) for up to 15 minutes in the event of power failure must be provided.
- 15.26 The Contractor must provide hard wired, switched disconnect of each individual telephone by State employees within the observation room for each bank of telephones.
- 15.27 Contractor shall provide high quality transmission service. Service shall be verified by a test call to an industry standard milliwatt tone and quiet generated in a facility within a selected North American NXX/NPA, and measurements taken regarding tone loss and line noise. Readings must be within 0 to -10 for loss and lower than -20dbm for noise. All other readings shall be considered substandard.
- 15.28 Credit for calls shall be issued when a caller attempts to place a call, does not get connected, and yet is billed; or when a call is terminated within 30 seconds of call initiation, due to substandard transmission quality, and a second attempt is made. Sub standard transmission quality may be verified by the contractor through recorded call playback .
- 15.29 The system shall provide for a toll free service, allowing inmates to dial an on site investigative report telephone number. This call shall not require the use of voice identification or PIN.
- 15.30 The system shall allow an automated call block feature, permitting the caller to block their number from being dialed in the future. The called party simply dials a single digit DTMF code once the message that the call received is from an facility and the calling inmate name is played. A record is generated and the system administrator is notified of the blockage. The system automatically blocks the call. The administrator may change the denial operation at any time via the administrative terminal.
- 15.31 The system shall constantly monitor the inmate phone for attempts to manipulate the switchhook in order to bypass system controls. Any such attempt will result in call disconnection. At no time will the inmate reach outside dial tone or operator assistance.
- 15.32 Calls shall be restricted to collect only. Inmates shall be prohibited from dialing: 911, 411, 555-1212, 0-, 00-, 700, 976, 900, 888, 800, 10XXX, 950, in order to ensure that there is no possibility of inmate live operator access. In addition, the system shall be equipped with

Handwritten signature and initials in the bottom right corner of the page.

EXHIBIT B

PRICING

1.0 FEES

- 1.1 Contractor fees charged users for local, state and national calls shall be as detailed below:
Cost to establish a call: \$1.50 Rate per minute: \$.20 Flat Rate

Any reduction in fees must be approved in writing by the State.

NO OTHER FEES or CHARGES SHALL BE ALLOWED. Failure to comply with this requirement constitutes default under this agreement.

- 1.2 Rates charged users for all international calling shall not exceed \$1.50 per call to establish a call, and per minute rates not to exceed the lowest charge offered a US resident by the interLATA service provider. **NO OTHER FEES or CHARGES SHALL BE ALLOWED.**

2.0 COMMISSIONS

- 2.1 The Contractor shall pay commissions to the state based upon revenue obtained from all calling services. The commission rates shall remain firm for the entire term of the contract and any extension thereof. No service charges shall be assessed the State. No additional office fees, consulting fees or other service fees shall apply.
- 2.2 Commissions shall be based upon a fixed percentage of gross billing. Deductions for any costs associated with services provided, uncollected calls, or unbillable calls **SHALL NOT BE PERMITTED.**
- 2.3 Commissions shall be paid to the State on a month to month basis, including the time period from the first day of the month through the last day of the month for all telephones. Payment shall be received by the State no later than the 15th of the month following services.
- 2.4 Commission shall be made by check, payable and forwarded to:
Department of Corrections, Division of Administration, 105 Pleasant Street, PO Box 1806,
Concord NH 03302-1806.
Delivery location may change dependent upon alterations in State policy or legislation.
- 2.5 The Contractor shall provide a management report to accompany each payment for telephones. The report shall identify revenue, quantity of calls and commission paid by telephone. Reports shall detail calculations based on the various provisions of the Contractor's commission rate schedule.

3.0 OFFERING

The Contractor shall provide services to the State under the following commission rate.

All Calling Services: 40%

**THIRD AMENDMENT
TO
INMATE CALLING SERVICES**

It is hereby agreed that the contract approved by Governor & Council on December 15, 1999, Amended on August 9, 2000 and November 13, 2002 collectively hereby referred to as the "Agreement", between Public Communications Services, as "Contractor" and the Department of Administrative Services as "State", to provide Inmate Calling Services for the Northern Correctional Facility in Berlin, New Hampshire, is amended as follows:

1. The Completion Date of this Agreement is extended by a period of 36 months, namely to August 22, 2006.
2. Delete in its entirety Exhibit B, paragraph 3.0 Offering and substitute therefore the following:

3.0 Offering
The Contractor shall provide services under the following commission rate:
All Calling Services: 18%
3. All other provisions of the "Agreement" approved by Governor and Council on December 15, 1999 and amended on August 9, 2000 and November 13, 2002 shall remain in full force and effect.

PUBLIC COMMUNICATIONS SERVICES,
INC.

By: _____

Paul Jennings

(Print Name)

Title: _____

Chief Executive Officer

Date: _____

June 27, 2003

NOTARY PUBLIC/JUSTICE OF THE PEACE

On the 27th day of June, 2003,

There appeared before me, the state and county
foresaid a person who satisfactorily identified himself
as

Paul Jennings

And acknowledge that he executed this document
indicated above.

In witness thereof, I hereunto set my hand and
official seal.

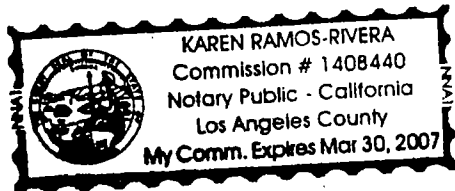
Karen Ramos-Rivera

(Notary Public/Justice of the Peace)

My commission expires: March 30, 2007

June 27, 2003

(Date)



STATE OF NEW HAMPSHIRE

By: _____

Donald S. Hill

Donald S. Hill

(Print Name)

Title: Commissioner

Department of Administrative Services

Date: _____

7/15/03

OFFICE OF THE ATTORNEY GENERAL

By: _____

Myr. G. Telli

7/28/03

(Print Name)

Title: _____

Sr. A.A.G.

Date: _____

7/28/03

The foregoing contract was approved by the
Governor and Council of New Hampshire on

AUG 13 2003

, 2003.

Signed: _____

[Signature]

DEPUTY SECRETARY OF STATE

Title: _____