

**Before the  
COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

**No. D.T.C 11-16**

**PETITION OF REIPIENTS OF COLLECT CALLS FROM  
PRISONERS AT CORRECTIOANL INSTITUTIONS IN MASSACHUSETTS  
SEEKING RELIEF FROM  
THE UNUST AND UNREASONABLE COST OF SUCH CALLS**

---

**SECOND AFFIDAVIT OF DOUGLAS A. DAWSON**

**I. INTRODUCTION**

1. My name is Douglas A. Dawson, and I am President of CCG Consulting, Inc. ("CCG"), located at 7712 Stanmore Drive, Beltsville, Maryland, 20705. CCG is a general telephone consulting firm that works for competitive local exchange companies (CLECs), local telephone companies, cable TV providers, electric companies, wireless providers, wireless companies, municipalities and governments and internet service providers. I filed an affidavit previously in this proceeding and will not repeat a description of my credentials.

2. The purpose of this affidavit is to challenge the DTC Hearing Officer Interlocutory Ruling that the usage component of prison calling rates should not be investigated. I explain why a charge of \$.10 per-minute is unreasonably high, relying in part and endorsing a Declaration from Coleman Bazelon that was filed in FCC Docket 12-375 that investigated the per-minute rates for prison calling.

3. I will also discuss the difference between prison calling rates and pay phone rates, which are the basis for the per-minute charges in Massachusetts jails and prisons.

## II. THE FCC DOCKET ON ICS RATES

4. I first want to introduce a Declaration made by Coleman Bazelon in FCC WC Docket No. 12-375<sup>1</sup>, attached as Exhibit A to this affidavit. In that Declaration Mr. Bazelon updated an estimate of the cost of prison calling based upon an affidavit that I had made in the earlier Docket to that case in 2003 and 2007.<sup>2</sup> In this declaration Mr. Bazelon estimates the cost of prison calling for both debit and collect calling to be no more than \$0.07 per minute. To make that estimate he updated the assumptions I had made about the cost of calling in 2003 and 2007.

5. I agree with the estimates made and the conclusions reached by Mr. Bazelon. As he points out, the cost of providing inmate calling services (ICS) has plummeted in the last decade. Calling has continued to get even cheaper since Mr. Bazelon's declaration and I can find dozens of vendors in 2013 that will terminate a long distance call anywhere nationwide for under a penny per minute. As Mr. Bazelon points out, there also have been numerous changes in the ICS industry whereby there are automated pre-pay systems that have eliminated most of the uncollectibles, which were the largest individual component of my cost estimates in 2003 and 2007.

6. Mr. Bazelon's conclusions are clearly applicable to Massachusetts. As I detailed in my earlier declaration, there is no significant difference in costs across states within the United States, largely due to advances in technology and the centralization of ICS service provision. Mr. Bazelon's calculation that ICS can profitably be provided for \$0.07 per minute is an indication that

---

<sup>1</sup> "Declaration of Coleman Bazelon," Federal Communications Commission, In the Matter of Rates for Interstate Inmate Calling Services, WC Docket No. 12-375.

<sup>2</sup> "Affidavit of Douglas A. Dawson," Federal Communications Commission, In the Matter of: Martha Wright, et al., Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in Pending Rulemaking (October 29, 2003), ¶ 43 (Hereinafter "Dawson 2003"); see also "Declaration of Douglas A. Dawson in Support of Petitioners' Alternative Proposal," Federal Communications Commission, 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 (February 16, 2007).

Massachusetts' usage rate cap of \$0.10 per minute, or \$1.50 for a fifteen minute call, is higher than necessary to permit recovery of costs and a reasonable profit.

7. Mr. Bazelon's declaration also demonstrates, in the Table on page 16, that there are nine states which provide ICS for \$0.10 or less, after accounting for commissions. These state rates include all unique ICS costs, and are therefore lower than the Massachusetts rate of \$0.10 plus an additional charge for ICS costs. This Table also shows that states provide service as cheaply as \$0.4, \$0.5 and \$0.7 per minute, including all ICS costs. Given the lack in variability of costs, this is another indication that the Massachusetts usage rate should be investigated.

### **III. THE DIFFERENCE BETWEEN PAYPHONE AND ICS CALLING**

8. ICS in Massachusetts has been pegged to ordinary payphone rates since 1998, and the current rate cap of \$0.10 per minute of \$1.50 for a fifteen minute call was set in 2004 based upon Verizon's rate for payphones. The usage rate does not include unique ICS-related costs, and since the 1998 Order providers have been permitted an additional surcharge to recover those costs (which the Hearing Officer agreed should be further investigated). There are a number of reasons why it no longer makes sense to peg ICS usage rates to ordinary payphone rates.

9. First, public payphones provided by the regulated telcos have rapidly gone the way of buggy whips and are almost non-existent. Most telcos have gotten completely out of the payphone business, and where they still have payphones the phones do not collect coins. New York City recently put free WiFi hotspots in all of the empty spots left from the vacated public payphones. Cell phones have largely supplanted the need for payphones. At the end of 2012 it was estimated that there were 326 million active cell phones and related devices in the US with a population estimated at 216 million. Where there are still payphones they are largely provided by competitive payphone providers and not by the incumbent telcos. And generally the competitive providers share revenues

with the locations that house their phones, such as hotels or restaurants. The payphone industry has changed drastically since 1998.


10. In addition, the cost to provide payphone service was never directly comparable to the cost of providing ICS calling. In 1998 most payphones still had coin slots and a large portion of the charge for payphone calling was to compensate for the cost of collecting and counting the coins and the resultant vandalism from people trying to steal the coins. Certainly there are extra costs associated with providing the penological functions for prison calling. But there is no way to draw any direct analogy between the cost of maintaining coin-based payphones and the cost of maintaining prison phones. Certainly both prison calling and coin-based payphone calling incur some extra costs beyond calling from a home or business, but I have never seen any evidence filed in any Commission docket that these two sets of costs were similar in any fashion. It was always a stretch to equate the cost of prison calling to payphone calling and the ICS providers were somehow successful in making that link without ever making any showing that the two universes of costs were at all similar.

11. Public payphones are also used very differently than prison and jail phones. In numerous complaints about the availability of prison phones to make calls inmates assert that prison phones are used more or less continuously during hours when calling is made available to inmates. While there may have historically been a small percentage of public payphones that were used in such a continuous manner, the vast majority of public payphones were used intermittently. The reason this is significant is that the heavy and nearly continuous calling on prison payphones creates a situation in economic terms of economy of scale. Any given phone or phone system in a prison is getting maximum utilization and thus being far more efficiently used (and thus cheaper per minute) than a public payphone that is used less often.

**IV. SUMMARY**

12. There are two reasons why the per-minute usage rates of calling ought to be investigated. First, as pointed out by Mr. Bazelon, the cost of providing prison calling is no greater than \$0.07 per minute, and still falling. This alone warrants an investigation of the rates. Mr. Bazelon points out that nine states had all-inclusive ICS rates, after site commissions, lower than the Massachusetts per-minute usage charge, which is not all-inclusive. Second, Massachusetts ICS rates ought to be investigated because they are tied to payphone rate structure set in 1998 and last revised in 2004. Those rates, by definition are largely obsolete and should not be used as the regulatory basis for any rates. It is time for the record to be updated and for costs to be examined again. If the ICS providers want to collect rates higher than the \$0.07 rate that Mr. Bazelon has calculated then they should open their books and show the DTC that such rates would not yield a reasonable profit.

Date: 10/11/13

  
DOUGLAS A. DAWSON