



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

March 25, 2013

Submitted Online Only

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

**Re: Comment in the Matter of Rates for Inmate Calling Services,
WC Docket No. 12-375**

Dear Commissioner Genachowski:

The Human Rights Defense Center (HRDC) is pleased to submit this comment concerning the Commission's Notice of Proposed Rulemaking on WC Docket No. 12-375, with respect to Inmate Calling Services (ICS).

Prison Legal News, a project of the HRDC, has been reporting on the issue of ICS systems and prison phone rates since the 1990s. In April 2011, Prison Legal News (PLN) published a survey and analysis of ICS phone rates and commission payments based on 2007-2008 data. *See* Exhibit A, enclosed. Most recently PLN has undertaken comprehensive research on ICS systems, and has obtained a near-complete set of data on prison phone rates and commissions from all fifty states and the Federal Bureau of Prisons (FBOP) for the years 2009 through 2012.

Exorbitant prison phone rates are well-documented and are a major concern among prisoners, detained immigrants, family members of prisoners and detainees, and prison and immigration reform advocates. The Commission is aware of the devastating impact of exploitative ICS costs, as described by hundreds of prisoners and their family members in comments entered on CC Docket #96-128. When families cannot pay the cost of phone calls from their incarcerated loved ones, those same families and their communities pay a different kind of price: isolation, stress, decreased rehabilitation and increased recidivism rates. The costs are also literal; many families of people held in prisons, jails and immigration detention centers pay high phone bills at the expense of groceries, medical bills and other necessities. In immigration detention facilities, high phone rates inhibit detainees' ability to access critical evidence needed to support asylum applications and visa applications, and to challenge deportation proceedings.

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We join in this chorus of stories by buttressing the tales of struggle from prisoners and their families, friends and advocates with comprehensive data on ICS rates and commissions. Our comment focuses primarily on current information we have obtained from corrections agencies nationwide related to prison phone rates and commissions, much of which has been previously unavailable to the public. This data includes state-by-state ICS phone rates for collect, debit and prepaid calling options for interstate calls; total per-call charges based on 15-minute calls; and commission percentages and totals. *See* Exhibits B and C, enclosed.

We trust that the information we are submitting, including our recommendations based on the data we have compiled, will assist in the Commission's efforts to ensure "just and reasonable" interstate phone rates for prisoners and detainees and their families.

As an initial matter, we note that the Alternative Wright Petition requests that the Commission establish benchmark rates for interstate ICS calls of \$.25 per minute for collect calls and \$.20 per minute for debit calls, with no set-up or other per-call charges. (NPRM #17). It is our position that the proposed benchmark rates are too high due to changes in the prison phone industry since the Alternative Wright Petition was filed in 2007, including downward trends in prison phone charges. Thus, we submit that if the Commission decides to impose rate caps, such caps should not exceed an average **\$.05 per minute for collect, debit and prepaid interstate ICS calls with or without per-call charges**, as discussed below in greater detail.

PART I – Commissions

As noted by the Commission, ICS contracts frequently include the payment of commissions or "location rent" to the facility or contracting agency. As the Commission also has noted, "under most contracts, the commission is the single largest component affecting the rates for inmate calling service." (NPRM #37). We submit that eliminating commissions demonstrably results in lower ICS phone rates, and that ending commissions is thus one means by which lower prison phone rates can be achieved.

Currently, at least eight states prohibit ICS commissions. While some states have made ICS costs more affordable without banning commissions, the largest shifts toward reasonable prison phone rates have taken place in states that have ended commissions entirely. (NPRM #38).

South Carolina's Example

Prior to April 2008, when the legislature ended ICS commissions,¹ interstate collect calls from South Carolina state prisons cost \$1.89 per call plus \$.22/minute, totaling \$5.19 for a fifteen-minute call. *See* Exhibit A, note 8. Currently, all collect calls – including interstate calls – from South Carolina prisons cost \$.99 flat rate while debit calls are \$.75 flat rate. Thus, it now costs just \$.066/min. to make an interstate collect call from a South Carolina prison and \$.05/min. to place debit calls, based on a 15-minute call duration.

¹ Code of Laws of SC 1976 Annotated § 10-1-210.

It should be noted that the ICS provider for South Carolina's prison system is Global Tel*Link, one of the major ICS providers along with Securus and CenturyLink. Thus, if Global Tel*Link is able to provide such reasonable interstate phone rates in South Carolina prisons, there is no reason why similar rates cannot be implemented in other jurisdictions.

New Mexico's Example

New Mexico banned ICS commissions in 2001;² as a result, prison phone rates fell from \$10.50 for a fifteen-minute interstate collect call³ to \$.65 based on current ICS rates, as the commission percentage dropped from 48% to 0% of gross prison phone revenue. The current (2012) rates are just \$.65 flat rate for collect and debit calls (\$.0433/minute based on a 15-minute call) and \$.59 flat rate for prepaid calls (\$.0393 per minute based on a 15-minute call), with no per-call charges. New Mexico's ICS provider is Securus.

New York's Example

The New York legislature acted in 2008 to end ICS commissions, taking the position that the state prison system "shall not accept or receive revenue in excess of its reasonable operating cost for establishing and administering" its ICS, while ensuring that the system "provides reasonable security measures to preserve the safety and security" of prisoners, correctional staff and call recipients.⁴ New York's prison phone rates prior to 2010 were \$1.28 plus \$.068/min. for all categories of calls, or \$2.30 for a 15-minute call.⁵ Today, New York – which has one of the larger state prison systems in the nation – charges \$.048 per minute for all categories of calls with no per-call charges, or \$.72 for a 15-minute call. New York's ICS provider is Value Added Communications (VAC), which is owned by Global Tel*Link. If New York's prison system can provide secure ICS services at such reasonable rates, including for interstate collect calls, then there is no legitimate reason why other states cannot do likewise.

Other Examples

Michigan, Missouri, Nebraska, Rhode Island and California have also taken steps to lower the cost of prison phone calls by eliminating ICS commissions.⁶ As described in greater detail in PLN's April 2011 cover story on the prison phone industry, there is a direct correlation between ending commissions and lower prison phone rates.⁷

Contrasting Commission Data

It is apparent that "not accepting or receiving revenue in excess of [a state's] reasonable operating cost for establishing and administering"⁸ its ICS system, as in New Mexico and seven other states, can result in rates as low as \$.0433 per minute for interstate collect calls. Thus, it

² NM Statutes Annotated § 33-14-1.

³ www.prisonphonejustice.org/includes/_public/rates//New%20Mexico/NM_prison_phone_rates_2002.pdf.

⁴ N.Y. Cor. Law § 623(3).

⁵ www.prisonphonejustice.org/includes/_public/rates//New%20York/NY_prison_phone_rates_2010_with_old_rates.pdf; also see Exhibit A, note 7.

⁶ Current rates for 15-minute interstate collect calls in these state, which do not accept ICS commissions, include: Michigan, \$3.45 (\$.23/min.); Missouri, \$1.75 (\$.1166/min.); Nebraska, \$1.45 (\$.0966/min.); Rhode Island, \$5.80 (\$.3866/min.); and California, \$6.60 (\$.44/min.).

⁷ *Prison Legal News*, April 2011, p1.

⁸ N.Y. Cor. Law § 623(3).

is unconscionable that some states, operating under contracts with the exact same ICS providers – primarily Global Tel*Link, Securus and CenturyLink – charge the following for fifteen-minute interstate collect phone calls, based on data included in Exhibit B:

Alabama:	\$17.30	(\$1.153/minute)
Alaska:	\$17.30	(\$1.153/minute)
Georgia:	\$17.30	(\$1.153/minute)
Minnesota:	\$17.30	(\$1.153/minute)
Ohio:	\$17.14	(\$1.143/minute)
Idaho:	\$16.55	(\$1.103/minute)
Mississippi:	\$14.55	(\$0.97/minute)
Maine:	\$13.35	(\$0.89/minute)
Tennessee:	\$12.80	(\$0.8533/minute)
Nevada:	\$11.85	(\$0.79/minute)
Delaware:	\$11.61	(\$0.774/minute)
Wyoming:	\$11.05	(\$0.736/minute)

Current data indicate that the vast majority of states accept ICS commissions, which range up to 76.6% of gross prison phone revenue (e.g., in Oklahoma). Other states with high commission rates include Louisiana (70%), Connecticut (68.75%), Mississippi (60.50%), Georgia (60%), Wyoming (65.50%), Maine (60%), North Carolina (58%) and Illinois (56%). At least 26 states receive commissions of 40% or more of gross ICS revenue. *See* Exhibit C.

Total commission payments remain substantial – of the 44 states for which we have current commission data (including the 8 states with no commissions), commission payments totaled \$100.7 million in FY 2012 plus an additional \$3.2 million from the FBOP. Therefore, consumers paid *at least* \$103.9 million in FY 2012 that went solely to ICS commissions. *See* Exhibit C. Notably, this includes only partial commission data from seven states and does not include data from six other states, privately-run facilities, county and municipal jails, juvenile facilities and immigration detention centers.

In the last several years, some states have established more reasonable ICS phone rates without eliminating commissions. States such as Montana, Florida, Massachusetts, Oregon and New Hampshire have offered less costly rates (\$2.04, \$2.10, \$2.36, \$2.40 and \$2.70, respectively, for a fifteen-minute interstate collect call) while still receiving ICS commissions. The effective per-minute rates for these states range from \$.136/min. to \$.18/min. for 15-minute interstate collect calls. It is therefore possible to reduce ICS rates without ending commissions. Notably, most of these states receive relatively low commissions – 25% in Montana, 35% in Florida, 15-30% in Massachusetts and 20% in New Hampshire – which illustrates how ICS commissions tend to correlate with the cost of prison phone calls. Absent having to pay commissions to contracting government agencies, ICS providers could offer significantly lower phone rates.

Because commission payments are deducted from gross ICS revenue and represent costs over and above the actual cost of providing prison phone services, we agree with the Commission that such commissions “are not a cost of payphones, but should be treated as profit.” (NPRM #37).

PART II – Calling Charges and Rates

Per-call charges

We recommend that prison phone calls should not include per-call charges, commonly known as connection fees. However, if the Commission determines that per-call charges are necessary, we recommend a cap on per-call charges in conjunction with capped per-minute rates.

With respect to per-call charges, some states currently do not include per-call charges in their ICS rate structures but only have per-minute charges for both interstate collect *and* debit calls. Those states include Indiana, Michigan, New Jersey, New York, Oregon and Texas. Other states have per-minute charges with no per-call charges for interstate collect *or* debit calls, or use flat rates (such as in New Mexico). Thus it is possible to eliminate per-call fees for ICS calls, as a number of states have already done so. Certainly, ICS providers would not contract with states that do not include per-call charges in their ICS systems unless that arrangement was profitable, which indicates that ICS systems without per-call charges remain profitable. (NPRM #18).

Per-minute rates

As mentioned above, we recommend that the Commission impose per-minute rate caps below the benchmark rates proposed by the Alternative Wright Petition. Notably, several states – such as New York and Oregon – have adopted ICS rate schedules that include *no per-call charges* and per-minute or flat rates *below* the benchmark rates of \$.25/min. for collect calls and \$.20/min. for debit calls proposed in the Alternative Wright Petition.

Additionally, some states have adopted prison phone rate structures that include per-call and per-minute charges that equate to average per-minute rates *below* the benchmark rates proposed in the Alternative Wright Petition. For example, the Missouri DOC charges \$.05/min. plus a \$1.00 per-call charge for interstate collect calls, which equates to \$.1166/min. for a 15-minute call, and \$.05/min. for debit calls. Nebraska charges \$.05/min. plus a \$.70 per-call charge for interstate collect calls and \$.05/min. plus a \$.50 per-call charge for debit calls, which equate to \$.097/min. and \$.0833/min., respectively, for a 15-minute call. Massachusetts charges \$.10/min. plus a \$.86 per-call charge for interstate collect calls and \$.08/min. plus a \$.65 per-call charge for debit calls, which equate to \$.157/min. and \$.123/min., respectively, for a 15-minute call.

Montana, New Hampshire, New Mexico (which uses a flat rate), South Carolina (flat rate) and Vermont also have average per-minute rates *below* both the collect and debit benchmark rates proposed in the Alternative Wright Petition. Oklahoma (flat rate), North Carolina (flat rate), Michigan, Indiana, Florida and Wisconsin have average per-minute rates below the proposed benchmark rates for collect calls only (several of those states do not offer debit calling).

Thus, current data indicates that at least 16 states have interstate collect and/or debit call rates that are *below* the proposed benchmark rates of \$.25/min. and \$.20/min. for collect and debit calls, respectively. These states apparently are still able to address necessary security concerns while providing reasonable phone rates. Further, ICS providers would not contract with states that offer average per-minute rates below the proposed benchmarks unless they could generate sufficient profit, which is indicative that prison phone systems with average per-minute rates below the proposed benchmark rates remain profitable for ICS providers. (NPRM #21).

Ironically, should the Commission impose benchmark rates at the amounts proposed in the Alternative Wright Petition (\$.25/min. and \$.20/min. for collect and debit calls, respectively), then the at least 16 states that currently have ICS rates below the proposed benchmark rates for collect and/or debit calls could potentially see rate *increases*. We submit that this would not achieve the Commission's goal of ensuring "just and reasonable" phone rates.

The Commission noted that "ICS providers determined that the methodology and data yield a requisite fixed per-call charge of \$1.56 with a per-minute rate of \$0.06 for debit calls, and a fixed per-call charge of \$2.49 with a per-minute rate of \$0.07 for collect calls, applicable to all ICS providers." Yet although ICS providers claim that the "marginal location" methodology results in a requisite minimum charge of \$3.54 for collect calls and \$2.46 for debit calls (based on a 15-minute call), ICS providers are in fact providing *lower* rates in a number of states.

For example, 15-minute interstate collect calls currently cost less than \$3.54 in at least 15 states: Florida, Massachusetts, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, North Carolina, Oklahoma, Oregon, South Carolina, Vermont, Wisconsin. Similarly, 15-minute interstate debit calls currently cost less than \$2.46 in at least 10 states: Massachusetts, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, Oregon, Vermont and South Carolina. This demonstrates that ICS providers are in fact able to provide prison phone services at rates below the requisite rates they claim are necessary under the "marginal location" methodology – rates that are, not incidentally, *lower* than the benchmark rates proposed in the Alternative Wright Petition. (NPRM #24).

We therefore recommend that the Commission take its lead from those states that have already significantly reduced their prison phone rates, and adopt a rate cap not to exceed **\$.05/minute for collect, debit and prepaid interstate ICS calls, with no per-call charges**. However, if the Commission decides that per-call charges are necessary in ICS systems, we recommend that the Commission **adopt a cap for per-call charges which, when combined with capped per-minute charges, does not exceed an average \$.05 per minute** for collect, debit and prepaid interstate ICS calls, based on a 15-minute call. (NPRM #20). Two states, New York and New Mexico, already provide ICS services at rates *below* \$.05/minute for collect and debit calls.

Although such caps could be accomplished by ending the practice of commission payments, as indicated above several states have demonstrated that lower ICS rates can be achieved without banning commissions. Thus, the Commission would not necessarily have to address the issue of prohibiting commissions so long as ICS providers otherwise comply with the rate caps.

While some commenters may argue that per-minute or per-call rate caps are arbitrary and capricious, they are certainly no more arbitrary and capricious than the balkanized prison phone rates that currently exist across the nation, where prisoners in different states, or even the same state, pay extremely divergent phone charges that range from \$.65 (New Mexico) to \$17.30 (Alabama, Alaska, Georgia and Minnesota) for a 15-minute interstate collect phone call. This is particularly true given that the same ICS provider can offer wildly fluctuating rates in different jurisdictions, which is also arbitrary and capricious. For example, Global Tel*Link charges \$.99 for a 15-minute interstate collect call in South Carolina while charging \$17.30 for the same type of call in Georgia (a neighboring state). Securus charges \$1.75 for a 15-minute interstate collect call in Missouri while charging \$17.30 for the same type of call in Alaska.

PART III – Collect, Debit and Prepaid Calling Options

To ensure flexibility for consumers and to encourage competition to achieve lower ICS rates, we are supportive of prison phone systems that include collect, prepaid collect and debit calling options. However, we do not believe it is necessary to place separate rate caps on prepaid and debit calls, nor do we believe it is necessary to mandate that ICS systems include debit and prepaid calling options, so long as a reasonable rate cap is applied to all ICS calls.

Debit Calls

Of the states for which we have the most recent (2012) rate data, at least 48 offer collect calls and at least 36 provide debit calling. (NPRM #32). Traditional collect calls (where the called party is charged for each individual call) are generally more expensive than debit calls (where the money for the call comes from the prisoner's account). According to the Alternative Wright Petition, this is because debit calling "reduces staff responsibilities and uncollectibles." Among the 36 states that offer debit calls, the debit rates are equal to or lower than collect rates for interstate prison phone calls in 35 states (the exception is Iowa, which only offers debit calling in its ICS system). *See* Exhibit B.

In many cases the cost difference between debit and collect calls is significant. For example, interstate collect calls from a Minnesota prison cost \$17.30 for 15 minutes while debit calls from the same facility cost \$4.80. In South Dakota, a 15-minute interstate collect call costs \$9.60; a debit call costs \$2.70. And in Idaho, a 15-minute interstate collect ICS call costs \$16.55 while a similar debit call costs \$3.40 flat rate. *See* Exhibit B.

Overall, we believe the affordability of the calls matters more than the method used for calling, and recommend that prison phone rates be capped at the same amount for collect and debit calls. ICS providers could still offer debit calls at rates below the cap in order to incentive the use of that calling option if they so choose. We submit that a single reasonable rate cap applicable to all types of calls would be fair and just. (NPRM #30).

Consider that of the states that offer both collect and debit calling options, at least 11 charge the same amount for collect and debit interstate calls: Alabama, Delaware, Indiana, Kentucky, Montana, Nevada, New Jersey, New Mexico, New York, Oregon and Washington. Thus, it is possible to cap ICS rates for both collect and debit calls at the same rate, which preserves the option of allowing ICS providers to offer debit calls at rates below the cap.

We see no safety concerns raised by debit calls, as demonstrated by the 36 state prison systems that currently offer ICS debit calling, including Texas – the nation's largest state prison system. The FBOP also offers debit calls. (NPRM #31). Further, so long as reasonable rate caps are imposed that apply to all ICS calling options, we do not see a need to require prison phone systems to offer debit calling unless the Commission decides that debit calls would increase competition in the prison phone industry. (NPRM #32, #36).

Prepaid Calls

Of the states for which we have current (2012) rate data, at least 38 offer prepaid collect calling, where the called party has a prepaid account set up to fund ICS calls. (NPRM #33).

Prepaid calls are typically less expensive than collect calls. Among the states that offer prepaid calling, the prepaid rates are lower than or equal to collect rates for ICS interstate calls in all 38 states. In the states that offer collect, prepaid and debit calling options, prepaid calls are generally less expensive than collect calls but more expensive than or equal to debit calls. For example, a 15-minute interstate collect call in Colorado costs \$5.25, while a prepaid call costs \$3.45 and a debit call costs \$3.00. In Kansas, a 15-minute interstate collect call costs \$7.70, a prepaid call costs \$6.55 and a debit call costs \$5.78. *See* Exhibit B.

As noted above with respect to collect and debit calls, we believe the affordability of the calls matters more than the calling method, and recommend that prison phone rates be capped at the same amount for all types of calls. ICS providers could still offer prepaid calls at rates below the cap in order to incentive the use of that calling option, if they so choose. We do not see a need to require prison phone systems to offer prepaid calling, unless the Commission determines that prepaid calls would increase competition in the prison phone industry.

Extra Fees

The Commission should eliminate extra fees that prisoners and their families often must pay in connection with ICS calls, including credit card charges, inactivity fees and closure fees for prepaid phone accounts. Otherwise, ICS providers could circumvent Commission-imposed caps on per-call and per-minute charges by simply increasing the extra fees or adding new account-related fees that effectively raise the overall costs of ICS calls.

The Commission alludes to this issue in NPRM #39, where it notes that “there are outstanding questions with prepaid calling such as: how to handle monthly fees; how to load an inmate’s account; and minimum required account balance.”

We have significant concerns about prepaid ICS calls, especially extra fees such as those to fund prepaid phone accounts and fees charged for *not* using the account or closing the account. For example, advance pay (prepaid) account users who accept calls from prisoners and detainees in Washington State incur a \$4.95 monthly “inactivity fee” if their account “exceeds 180 days of no call activity until the funds have been exhausted or the call activity resumes.” They may also be assessed a \$4.95 fee to close their account, and a \$4.95 “refund fee” when requesting a refund of money remaining in an account.⁹ Similarly, New York imposes a \$4.95 monthly inactivity fee if prepaid account holders do not accept calls in a 180-day period.

Often, consumers are charged a credit card transaction fee for funding ICS prepaid accounts. Families of Michigan prisoners pay \$3.95 for credit card payments.¹⁰ In Missouri, the cost is \$6.95 if the customer funds a prepaid account over the phone or online using a debit or credit card.¹¹ In Nevada, a family member who adds money to a prepaid account over the phone (under \$50.00) incurs a fee of \$6.95 plus tax.¹² New York, Utah and Washington (which all use VAC

⁹ WA extra fees from DOC website, visited 3-16-13; www.doc.wa.gov/family/telephonefaqs.asp.

¹⁰ Michigan contract with PCS, 2011-2016, p.95.

¹¹ MO DOC email to HRDC campaign director Mel Motel, July 17, 2012.

¹² NV DOC email to HRDC campaign director Mel Motel, August 6, 2012.

as their ICS provider) require consumers to pay a \$7.95 fee when funding a prepaid ICS phone account using a credit or debit card, though there is no fee for mailed-in payments.¹³

Delaware's prison phone system provides an example of some of the more egregious extra fees. When consumers set up prepaid accounts, beyond the high cost of the calls (\$11.61 for a fifteen-minute interstate prepaid call), they incur charges that include up to \$9.50 to pay by credit card through Global Tel*Link's website and \$5.00 to close a prepaid account.¹⁴ Further, prison phone calls made to cell phones "may be assessed a surcharge of 4% of the cost of the call."¹⁵

It should be noted that such extra fees are not confined to the arena of prepaid calls. In Vermont, families are charged when they deposit money into prisoners' debit phone accounts. Depending on the amount deposited (from \$.01 to \$300.00) and the method of deposit (by phone, online, "kiosk credit" or "kiosk cash"), they are charged fees ranging from \$2.95 to \$15.75 per deposit.¹⁶ Families of Virginia prisoners pay up to \$8.50 to use a credit card to add money to a prisoner's debit phone account online.¹⁷ Such fees serve to inflate the actual costs that consumers pay for ICS services, which increases the effective per-minute rates for prison phone calls.

Therefore, the Commission should prohibit ICS providers from imposing extra fees or charges in connection with ICS calls, as regulatory agencies in some states have done. For example, on December 12, 2012, the Louisiana Public Service Commission held that ICS providers could not impose "surcharges and fees" that had "not been authorized by the Commission General Orders and have not been approved by an affirmative vote of the Commissioners."¹⁸

PART IV – Other Calling and Rate-related Issues

Downward Trends in ICS Rates

According to the data we have compiled, there has been a downward trend in ICS phone rates in a number of jurisdictions over the past several years. (NPRM #29). We compared 2012 ICS rates for 48 states (Exhibit B) with rates from our 2007-08 data (Exhibit A), based on 15-minute interstate collect phone calls. The comparison indicated that ICS phone rates had *decreased in at least 20 states* while in most others they remained unchanged. Of the states that experienced declines in interstate collect phone rates, the most notable, based on 15-minute calls, included Colorado (\$17.30 in 2008 decreased to \$5.25 in 2012); Connecticut (\$17.30 in 2008 dropped to \$4.87 in 2012); Illinois (\$17.30 in 2008 declined to \$5.35-\$6.40 in 2012); New Mexico (\$10.50 in 2008 dropped to \$.65 in 2012); North Carolina (\$17.30 in 2008 decreased to \$3.40 in 2012); Oregon (\$17.30 in 2008 dropped to \$2.40 in 2012); Vermont (\$10.75 in 2008 declined to \$3.50 in 2012) and Washington (\$18.30 in 2008 dropped to \$11.00 in 2012).

¹³ See www.doc.wa.gov/family/telephonefaqs.asp; New York fees confirmed via phone call to VAC, Feb. 4, 2013; Utah fees confirmed via phone call to VAC, March 8, 2013.

¹⁴ Delaware ICS contract, DTI-2010-122.

¹⁵ See www.gtl.net/familyandfriends/gtl_billing_support.shtml (FAQs).

¹⁶ Vermont contract with PCS covering 2010-2012, p.11.

¹⁷ Virginia ICS contract modification 007, p.1.

¹⁸ <http://lpscstar.louisiana.gov/star/portal/lpsc/PSC/PSCDocumentDetailsPage.aspx?DocumentId=e62a76de-96f5-4170-949b-f6b5daddb006&Class=Order>.

No-cost Calls

The Commission invited comment on the provision of no-cost calling options for prisoners and detainees. (NPRM #39). We submit that certain categories of telephone calls should be free for prisoners and persons in immigration detention. Detainees should be permitted to contact free legal services providers, foreign consulates, the courts where they have pending cases and opposing counsel free of charge. This is particularly important for detainees who represent themselves in immigration proceedings, and free telephone calls from detainees to specified agencies and organizations are consistent with current ICE detention standards.¹⁹

Juveniles held in correctional facilities or youth centers that have ICS systems should be afforded a minimum number of free calling minutes each month to ensure they can maintain contact with their families. Additionally, prisoners and detainees who have minor children should be supplied with a minimum number of free calling minutes each month to ensure they are able to maintain parental communication with their children. An estimated 1.7 million minor children in the U.S. have incarcerated parents, based on 2007 data from the Bureau of Justice Statistics.²⁰

In order to ensure parity for prisoners who do not have minor children, the Commission should consider a requirement that *all* prisoners and detainees be afforded a minimum number of free calling minutes per month to speak with their family members and loved ones. If caps on ICS phone rates are imposed by the Commission as a means of reducing prison phone costs, we believe it would be a reasonable compromise to slightly increase the caps to accommodate a minimum number of free calling minutes for prisoners and detainees each month. ICS providers could have the option of a fixed rate cap with no free calling, or a slightly higher cap if they provide a minimum number of free calling minutes per month for prisoners and detainees.

Note that requiring or incentivizing ICS providers to offer a minimum number of free calling minutes for prisoners and detainees would address a long-standing concern with ICS services: that they are socio-economically biased because they condition the ability to make phone calls on the ability of prisoners and call recipients to pay high prison phone rates. Thus, prisoners and family members with sufficient financial resources can maintain phone contact while those who are impoverished cannot. Providing a specified number of free calling minutes for prisoners and detainees would ensure that *all* ICS consumers have equal standing with respect to making a minimum number of calls each month, irrespective of their financial ability. Currently, Alaska offers free local calls for state prisoners, while in New Hampshire the first five minutes of local calls are provided at no charge. Thus, some no-cost calling is a viable option.

Intrastate-Interstate Parity

We object to adopting an intrastate-interstate parity policy, where interstate ICS rates are capped at intrastate long-distance (e.g., interLATA) rates. (NPRM #34). In some jurisdictions, intrastate interLATA ICS rates are very high, defeating the purpose of imposing rate caps on interstate

¹⁹ http://www.ice.gov/doclib/detention-standards/2011/telephone_access.pdf (permitting free telephone calls to designated entities, at p.304).

²⁰ "Parents in Prison and Their Minor Children," Bureau of Justice Statistics, NCJ 222984 (August 2008).

rates so as to make prison phone calls more affordable, just and reasonable. For example, based on current ICS rate data, a 15-minute intrastate interLATA collect call costs \$11.61 in Delaware, \$8.40 in South Dakota, \$8.11 in Kansas, \$7.05 in Maryland and \$6.45 in Minnesota.

Further, adopting an intrastate-interstate parity policy would perpetuate the arbitrary patchwork-quilt of interstate phone rates across the nation, where prisoners in one state pay substantially higher phone rates than those in other states – even when the phone service is provided by the same ICS provider. To ensure equality across jurisdictions to the greatest extent possible, we submit that an intrastate-interstate parity policy would not achieve that goal.

Dropped Calls

With respect to dropped calls (NPRM #19), we support a protocol whereby if a call is dropped or ends unexpectedly before the expiration of the maximum duration of the call, and a prisoner calls the same phone number again within a specified time period (such as 2-3 minutes), then the per-call connection fee for the second call is automatically waived. We oppose protocols whereby call recipients must file a refund request for multiple connection fees incurred when subsequent calls are made after phone calls are dropped, as this places the burden on the call recipient when the burden should properly be placed on the ICS provider responsible for the dropped call.

PART V – Updated ICS Data

The Human Rights Defense Center is currently collecting updated data on the ICS contracts for all 50 state Departments of Corrections and the Federal Bureau of Prisons, as a follow-up to our nationwide survey published in April 2011, in which we collected and analyzed data on 2007-2008 prison phone rates and commissions.²¹ Through public records requests and contacting prison officials directly, we have obtained data on FY 2012 ICS rates for collect and debit calls (local, intrastate, interstate and international) for 48 states and the FBOP, and commission data for fiscal years 2009-2012 from 44 states and the FBOP. (NPRM #43).

Please see Exhibit B for 2012 per-call and per-minute rates, and Exhibit C for commission data. Much of this data has been uploaded to our prison phone website, www.prisonphonejustice.org, where it is available for viewing. If the Commission would like to see specific ICS contracts or rates that are not yet available online, please contact us and we will make them available.

Our data was obtained from state Departments of Corrections and the FBOP, either directly from the agency, from an agency's website or staff, or from the agency's ICS provider. The data does *not* include self-reported ICS costs/fees from prisoners and their families. Hundreds of prisoners

²¹ See *Prison Legal News*, April 2011, p.1. **Note:** With respect to PLN's survey of ICS rates and commission data published in April 2011, we have since released an updated chart that includes a correction for Virginia's ICS data. In the original chart we indicated that Virginia received \$13.77 million in commission payments, with a national total of \$152.33 million in commissions based on data from 49 states. However, the Virginia commission payment data should have been \$4.82 million, with a national total of \$143.49 million, as reflected in the revised chart that is enclosed as Exhibit A. We strive to ensure our data is accurate and make corrections when necessary.

and their loved ones have submitted comments to the Commission regarding the costs of prison phone calls, and in many cases these are consistent with the information we have collected from state agencies. In some cases, comments filed with the Commission by prisoners and their family members have revealed information that corrections agencies did not provide. Such information includes the extra charges associated with ICS calls, such as fees to fund prepaid accounts and charges for multiple connection fees following dropped calls.

The ICS Provider Proposal mentioned in the NPRM “contains data for less than 30 correctional facilities, none of which impose site commissions.” (NPRM #44). To date, the Human Rights Defense Center has collected the current contracts, ICS rate information and commission data for at least 44 states. We also have similar historical information dating to 2005. It is clear that the ICS Provider Proposal referenced in the NPRM has omitted the fact that the vast majority of states receive commissions from telecommunications companies. The sample provided by ICS providers is thus unrepresentative of the majority of state prison phone systems.

ICS providers have argued that “in calculating their proposed rate caps the Petitioners relied on data from facilities with low cost calling.” We do not dispute that, as we believe it is reasonable to look to the states that have the lowest ICS rates as examples of best practices in the prison phone industry. Those states, including New York and New Mexico, provide a roadmap on how to create a system in which prisoners and their families are able to access affordable calling services – and a number of states have demonstrated that this is entirely possible, primarily through the elimination of commissions with a resultant lowering of ICS phone rates.

Basically, if some states that contract with the largest ICS providers are able to offer reasonable interstate collect calling rates, such as New Mexico (\$.043/min.), New York (\$.048/min.), South Carolina (\$.066/min.) and Nebraska (.0966/min.), then there is no reason why the same ICS providers cannot offer comparable rates in other jurisdictions.

PART VI – Miscellaneous Comments

Legal Authority

We submit that the Commission has the legal authority to regulate interstate ICS phone rates, which encompasses the authority to impose rate caps and implement other measures to ensure just and reasonable rates. (NPRM #49).

Pursuant to 47 U.S.C. § 201(b), “All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful.” Further, “The Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this chapter.” Although 47 U.S.C. § 276 requires that all payphone providers be “fairly compensated,” that does not preclude the Commission from promulgating rules and regulations to ensure ICS phone rates are “just and reasonable” while concurrently ensuring that ICS providers are fairly compensated.

As the Commission “may prescribe such rules and regulations as may be necessary in the public interest” to carry out its mandate with respect to telecommunications services, including just and

reasonable charges and practices, we submit that the Commission has the legal authority to impose unilateral caps on ICS per-call and per-minute charges; prohibit commission payments; prohibit extra fees; and take other actions in connection with interstate prison phone calls where such measures are necessary to ensure just and reasonable rates and practices.

Jurisdiction Over Public & Private Correctional Facilities

We recommend that to the extent privately-operated prisons have ICS systems that include interstate calling, such phone systems fall under the Commission's jurisdiction and private prisons should be subject to the same requirements as public prisons with respect to just and reasonable phone rates. (NPRM #20).

Whether or not prisons are privately-operated or run by governmental agencies, if they offer interstate phone services they fall within the Commission's jurisdiction. Comparably, state public utility commissions do not have the authority to set or control interstate phone rates. If state public utility commissions do not have that authority, then state prison officials likewise do not have the authority to set or regulate interstate ICS phone rates, nor do the private prison companies with which they contract. (NPRM #52).

It is apparent that state officials are required to comply with a number of federal laws related to the operation of correctional facilities, including Constitutional provisions such as the Eighth Amendment and federal statutes such as the Religious Land Use and Institutionalized Persons Act (RLUIPA), the Americans with Disabilities Act (ADA) and the Prison Rape Elimination Act (PREA). Thus, to the extent that state and private prisons utilize interstate ICS calling, they properly fall under the Commission's legal authority to ensure "just and reasonable" prison phone charges and practices, just as they must comply with other federal statutes, rules and regulations related to correctional facilities. (NPRM #53).

Periodic Reviews

We recommend that the Commission require periodic reviews of prison phone rates and services, and compliance with same by ICS providers. (NPRM #46).

Comparably, of the states we have surveyed, thus far only one – Florida – has performed and disclosed audits of its ICS system.²² In the most recent audit we obtained, published on June 30, 2012, state auditors performed 147 test calls from approximately 114 different phones at five Florida prisons. The auditors noted numerous "differences between the billing rates provided in the call log and the billing rate listed in the FDOC contract. All differences were related to billings on prepaid calls." Overall, there were only 108 "accurate calls" out of the 147 "complete calls" performed during the audit, or a 26.5% discrepancy rate.

While this single audit is by no means indicative of a widespread problem (indeed, five audits of Florida's ICS system prior to the most recent audit did not reveal similar deficiencies), it does evidence a need for continued oversight of prison telephone systems. Periodic rate reviews by the Commission would be useful in this regard, particularly since the Commission is the only agency that has jurisdiction over interstate phone rates and calling services.

²² Florida Securus audit, June 30, 2012.

Existing Contracts

We recommend that the Commission require ICS providers to come into compliance with the Commission's mandates relative to reducing prison phone rates by a date certain or when the provider's ICS contract is next renewed or extended, whichever occurs first.

We would note that ICS phone rates have been extremely high for decades, and that it would not be just or reasonable to allow ICS providers to continue to charge existing high rates until their next contract renewal or extension. In many cases ICS contracts extend for multiple years, meaning that existing rates will persist in some jurisdictions for lengthy periods of time. For example, the initial terms of the ICS contracts for Connecticut, Texas and Arizona extend for seven years (2012-2019, 2008-2015 and 2007-2014, respectively). California's prison phone contract with Global Tel*Link runs for six years, from 2012 to 2018, while ICS contracts for at least eight other states extend for initial terms of five years.²³

While the Commission may be leery of interfering with procurement decisions of correctional agencies and contractual agreements with their ICS providers, there is nothing that prevents the Commission from implementing rate caps or other remedial measures to reduce ICS rates that go into effect on a specific date. ICS providers would then determine how they will comply with the Commission's mandates; e.g., they could move to renegotiate their contracts, terminate existing contracts so they can be rebid based on revised terms that take into account the Commission's requirements related to prison phone rates and services, etc.

If the Commission requires ICS providers to comply with its ICS-related mandates by a date certain, we recommend that the time frame for such compliance not exceed six months. Further, the Commission should specify that ICS providers must come into compliance by the date set by the Commission or at the time of the ICS provider's next contract renewal or extension, whichever occurs first. (NPRM #45, #46).

PART VII – Findings and Recommendations

Based on our extensive research into ICS systems and the data we have obtained from state agencies concerning current ICS rates, calling options, commission payments and extra charges, it is our conclusion that:

- Interstate phone calls from prisons, jails and detention centers often result in exorbitant costs that put a tremendous strain on prisoners and their family members, who are mostly poor and thus unable to afford the high costs required to stay in touch via ICS calls on a regular basis.
- States that have eliminated ICS commissions, through legislation or other governmental action, have seen a significant decrease in the cost of prison phone calls.

²³ Louisiana (2012-2017), Michigan (2011-2016), Missouri (2011-2016), South Carolina (2011-2016), Nebraska (2008-2013), Tennessee (2008-2013), Utah (2008-2013) and Wisconsin (2009-2014).

- In addition to high interstate per-call charges and per-minute rates, families have been negatively impacted by extra fees, such as costs to fund ICS prepaid accounts, to cancel the account or even to not use the account (inactivity fees).
- States that have lowered the cost of ICS calls within their prison systems have been able to provide phone services at reasonable rates without compromising the security needs of their correctional facilities.

In summary and based on the foregoing, we recommend that the Commission take the following remedial actions to ensure just and reasonable charges for ICS phone calls:

- **Eliminate commissions** on interstate calls from prisons, jails and detention facilities, in order to facilitate lower phone rates. Although prohibiting ICS providers from paying commissions is not essential to reducing prison phone rates, commissions are closely correlated with high rates.
- **Impose rate caps** not to exceed \$.05/minute for collect, prepaid and debit interstate calls from prisons, jails and detention centers, with no per-call charges. Alternatively, if the Commission decides that a per-call charge is necessary, adopt a cap for per-call charges which, when combined with capped per-minute charges, does not exceed an average \$.05 per minute for collect, debit and prepaid interstate ICS calls, based on a 15-minute call.
- **Prohibit extra fees** for ICS calls, such as charges to fund, maintain and close prepaid or debit ICS accounts for interstate calls from prisons, jails and detention facilities. Absent addressing such extra fees, ICS providers could shift costs from capped per-call or per-minute charges to expanded or increased account-related fees.
- **Require or encourage calling options** that include debit and prepaid calls in ICS systems, to promote competition and provide maximum flexibility for consumers.
- **Provide a minimum number of no-cost calling minutes** for prisoners and detainees, as follows:
 - Persons in immigration custody should be able to make no-cost calls to an ICE-approved list of free legal service providers for the purpose of obtaining legal representation; to consular officials; to the Department of Homeland Security (DHS) Office of the Inspector General (OIG); to the ICE Office of Professional Responsibility (OPR) Joint Intake Center; and to the courts and opposing counsel in their immigration cases. Detainees who are representing themselves pro se should be permitted free calls on an as-needed basis to family or other persons assisting with the detainee's immigration proceedings.
 - Juveniles held in correctional facilities and youth centers with ICS systems should be afforded a minimum number of free calling minutes each month to ensure they can maintain contact with their families.

- Prisoners and detainees with minor children should be permitted a minimum number of free calling minutes each month to ensure they can maintain parental communication with their children.
- To ensure parity for prisoners and detainees who do not have minor children, the Commission should consider requiring a minimum number of free calling minutes each month for all prisoners and detainees. To incentivize ICS providers, any per-call or per-minute rate caps could be increased slightly if a minimum number of free calling minutes is provided for all prisoners and detainees.
- **Require periodic reviews** of ICS systems to ensure that prison phone rates remain just and reasonable, and to verify that ICS providers are complying with the rates.
- **Require compliance** with the Commission's mandates related to prison phone rates by a date certain – not to exceed six months from the date the mandates are issued – or when an ICS provider renews or extends an existing ICS contract, whichever occurs first.

Thank you for your consideration of these comments; please feel free to contact us should you require any additional information that we may be able to provide.

Sincerely,



Paul Wright
Executive Director, HRDC

Enclosures

Prison Phone Contract Data / Kickbacks / Daytime Collect Call Rates - REVISED

STATE	PROVIDER	% KICK.	\$/YR KICK.	Local Call	Intrastate ¹	Interstate	COMMENT
AK	Securus	15-32.1	247 K	0.00	1.55 + .13-.38/m	3.95 + .89/m	Free local calls
AL	GTL	61.5	5.5 Mil.	2.75	2.25 + .30/m	3.95 + .89/m	
AR	GTL	45	2.06 Mil.	3.00 + .12/m	3.00 + .12/m	3.95 + .45/m	
AZ	Securus	53.7	?	1.84	.36/m	.52/m	
CA	GTL	Flat	19.5 Mil.	1.50 + .107/m	2.00 + .159/m	3.95 + .70/m	Ending kick in 2011 ²
CO	VAC	43	3.1 Mil.	2.75 + .23/m	2.75 + .23/m	3.95 + .89/m	Highest local rate
CT	GTL	45	4.49 Mil.	2.00	1.75 + .23/m	3.95 + .89/m	
DE	GTL	46	1.35 Mil.	2.00	2.50 + .20/m	2.50 + .89/m	
FL	Securus	35	3 Mil.	.50	1.20 + .04/m	1.20 + .04/m	Rates reduced in 2006
GA	GTL	49.5	7.8 Mil.	2.70	2.00 + .19/m	3.95 + .89/m	
HI	HI Telecom	?	74 K	1.95	1.45 + .14/m	?	
IA	ICN/PCS	Special	846 K	2.00	2.00+.21-.27/m	3.00 + .30/m	Debit calls only ³
ID	PCS	10.5-66*	1.2 Mil.	3.80	3.80	3.80 + .85/m	* Effective kick rates
IL	McLeod	56	10.7 Mil.	2.71 + .16/m	2.50 + .26/m	3.95 + .89/m	
IN	GTL	18	80 K	2.95	2.25 + .30/m	1.50 + .25/m	Formerly AT&T
KS	Embarq	41.3	1.05 Mil.	2.61	1.96 + .41/m	1.70 + .40/m	Kick reduced in 2008 ⁴
KY	Securus	54	3.2 Mil.	1.85	1.50 + .20/m	2.00 + .30/m	Formerly MCI
LA	GTL	55	3.96 Mil.	.98	2.15 + .19/m	2.15 + .21/m	
MA	GTL	35	1.9 Mil.	.86 + .10/m	.86 + .10/m	.86 + .10/m	Current kick is 15-30%
MD	Securus	48-60	6.1 Mil.	.85	2.85 + .30/m	3.00 + .30/m	
ME	Maine DOC	22	370 K est.	1.55 + .25/m	1.55 + .25/m	3.00 + .69/m	State-run phones
MI	Embarq	NONE	NONE	.12/m	.12/m	.15/m	Ended kick in 2008 ⁵
MN	GTL	49	1.44 Mil.	1.00 + .05/m	3.00 + .23/m	3.95 + .89/m	
MO	PCS	NONE	800-900 K*	1.00 + .10/m	1.00 + .10/m	1.00 + .10/m	* Pays for 21 staff
MS	GTL	55.6	2.8 Mil.	2.60	1.90 + .20/m	3.00 + .69/m	PLN filed suit for data
MT	PCS	50	300 K est.	2.75 + .20/m	2.75 + .20/m	2.75 + .20/m	Kick reduced in 2011 ⁶
NC	GTL	52	8.7 Mil.	1.04	2.25 + .19/m	3.95 + .89/m	Formerly AT&T
ND	Securus	40	132 K	.50	2.46 + .24/m	2.46 + .24/m	Effective rates
NE	PCS	NONE	NONE	.70	.70 + .05/m	.70 + .05/m	
NH	ICS	20	240 K	1.20 + .10/m*	1.20 + .10/m	1.20 + .10/m	* No per/m for 1st 5 min
NJ	GTL	40	4.42 Mil.	1.75 + .05/m	1.75 + .40/m	1.75 + .89/m	Current rates = \$.33/m.
NM	PCS	NONE	NONE	2.15	1.75+.125-.175/m	3.00 + .50/m	Ended kick in 2001
NV	Embarq	54.2*	2.26 Mil.	1.45	.85 + .1175/m	3.50 + .79/m	* \$2.4 Mil. min. kick
NY	Unisys/VAC	NONE	NONE	.048/m	.048/m	.048/m	Ended kick in 2008 ⁷
OH	GTL	38	14.5 Mil.	1.14	1.04 + .322/m	3.90 + .871/m	Rates as of 2009
OK	GTL	50*	1.07 Mil.	3.60	3.60	3.60	* 50% of net profit
OR	FSH/VAC	50-60*	3 Mil.	2.64	3.95 + .69/m	3.95 + .89/m	* \$3 Mil. min. kick
PA	GTL	44.4	7.05 Mil.	1.65	2.35 + .26/m	3.50 + .50/m	
RI	GTL	NONE	NONE	.70*	.70*	1.30 + .30/m	* Flat fee for 20 min
SC	Embarq	NONE	NONE	.50	1.00 + .15/m	1.25 + .15/m	Ended kick in 2008 ⁸
SD	FSH	33-38	225 K	3.00	3.00 + .44/m	3.50 + .50/m	Formerly Qwest
TN	GTL	50.1	3.2 Mil.	.895	1.852 + .098/m	3.53 + .617/m	
TX	Embarq/Securus	40	1.81 Mil.	.26/m	.26/m	.43/m	Bundled rate
UT	FSH	45-55	900 K*	3.15	2.80 + .12/m	3.00 + .45/m	* 2009 kickback data
VA	GTL	35	4.82 Mil.*	1.00	2.25 + .25/m	2.40 + .43/m	* Corrected in 2012
VT	PCS	35	372 K	1.40 + .072/m	1.40 + .23/m	3.25 + .50/m	37% kick in 2009
WA	FSH/VAC	51	5.1 Mil.	3.50*	3.50*	4.95 + .89/m	* Flat fee for 20 min
WI	Embarq	30	2.6 Mil.	1.25	1.25 + .28/m	2.00 + .35/m	
WV	GTL	46	900 K	.85	.85 + .20/m	.85 + .50/m	
WY	ICS	34-43	323 K	1.49	1.17 + .17/m	3.55 + .62/m	51.5% kick in 2010
		41.9 Avg	143.49 Mil.				

1 Intrastate rates reflect intrastate interLATA rates, or intrastate intraLATA rates if interLATA is not applicable

2 CA is phasing out kickbacks in 2011; new rates = \$.58+\$.058/m. local, \$.77+\$.084/m. intra, \$1.52+\$.342/m. inter

3 Iowa uses a debit-only system and keeps all revenue after paying phone usage charges

4 Kansas reduced its commission from 48.25% in Jan. 2008; old rates = \$4.35 local, \$3.26+\$.69/m. intra, \$2.84+\$.66/m. inter

5 MI banned kickbacks in August 2008; old rates = \$2.00 local, \$2.95+\$.325/m. intra, \$3.99+\$.89/m. inter (current provider is PCS)

6 MT contracted with Telnate in 2011 for a limited 25% commission; new rates = \$.24+\$.12/m. for all categories of calls

7 Prior to 2008, NY had a 57.5% commission; old rates = \$1.28+\$.068/m. for all categories of calls

8 SC banned kickbacks as of April 1, 2008; old rates = \$.76 local, \$1.73+\$.22/m. intra, \$1.89+\$.22/m. inter

Source: Prison Legal News research data (as of 2007-2008); revised 10/23/2012

Interstate Inmate Calling Service (ICS) Rates

		Rates (2012)			Cost of 15-Minute Call			
Company		Collect	Pre-Paid	Debit	Collect	Pre-Paid	Debit	
AL	Embarq (CenturyLink) *	\$3.95 + .89/min.	\$3.95 + .89/min.	\$3.95 + .89/min.	\$17.30	\$17.30	\$17.30	
AK	Securus	3.95 + .89/min.	3.95 + .89/min.	N/A	\$17.30	\$17.30	N/A	
AZ	Securus	2.40 + .40/min.	2.00 + .40/min.	2.00 + .40/min.	\$8.40	\$8.00	\$8.00	
AR	GTL	3.95 + .45/min.	N/A	N/A	\$10.70	N/A	N/A	
CA	GTL	.44/min.	.44/min.	N/A	\$6.60	\$6.60	N/A	
CO	VAC (GTL)	3.00 + .15/min.	1.50 + .13/min.	1.50 + .10/min.	\$5.25	\$3.45	\$3.00	
CT	Securus	.3245/min.	.2433/min.	N/A	\$4.87	\$3.65	N/A	
DE	GTL	1.71 + .66/min.	1.71 + .66/min.	1.71 + .66/min.	\$11.61	\$11.61	\$11.61	
FL	T-NETIX (Securus)	1.20 + .06/min.	1.02 + .06/min.	N/A	\$2.10	\$1.92	N/A	
GA	GTL	3.95 + .89/min.	?	N/A	\$17.30	?	N/A	
HI	Hawaiian Telcom	?	?	N/A	?	?	N/A	
ID	PCS (GTL)	3.80 + .85/min.	3.60 + .80/min.	3.40 flat	\$16.55	\$15.60	\$3.40	
IL	CCPS	2.50 + .19-.26/min.	1.80 +.16-.26/min.	N/A	\$5.35-6.40	\$4.20-5.70	N/A	
IN	PCS (GTL)	.24/min.	.24/min.	.24/min.	\$3.60	\$3.60	\$3.60	
IA	PCS (GTL)	N/A	N/A	3.00 + .30/min.	N/A	N/A	\$7.50	1
KS	Embarq (CenturyLink) *	1.70 + .40/min.	1.30 + .35/min.	1.28 + .30/min.	\$7.70	\$6.55	\$5.78	
KY	Securus	2.00 + .30/min.	2.00 + .30/min.	2.00 + .30/min.	\$6.50	\$6.50	\$6.50	2
LA	Securus	2.15 + .17-.27/min.	2.15 + .17-.27/min.	1.935 + .153-.243/min.	\$4.70-6.20	\$4.70-6.20	\$4.23-5.58	
ME	PCS (GTL)	3.00 + .69/min.	3.00 + .69/min.	.30/min.	\$13.35	\$13.35	\$4.50	
MD	T-NETIX (Securus)	2.85 + .30/min.	.30/min.	.30/min.	\$7.05	\$4.50	\$4.50	3
MA	GTL	.86 + .10/min.	.86 + .10/min.	.65 + .08/min.	\$2.36	\$2.36	\$1.85	
MI	PCS (GTL)	.23/min.	.23/min.	.21/min.	\$3.45	\$3.45	\$3.15	
MN	GTL	3.95 + .89/min.	N/A	.32/min.	\$17.30	N/A	\$4.80	
MS	GTL	3.30 + .75/min.	?	?	\$14.55	?	?	4
MO	Securus	1.00 + .05/min.	.05/min.	.05/min.	\$1.75	\$0.75	\$0.75	
MT	Telmate	.24 + .12/min.	.24 + .12/min.	.24 + .12/min.	\$2.04	\$2.04	\$2.04	
NE	PCS (GTL)	.70 + .05/min.	.50 + .05/min.	.50 + .05/min.	\$1.45	\$1.25	\$1.25	
NV	CenturyLink *	3.00 + .59/min.	3.00 + .59/min.	3.00 + .59/min.	\$11.85	\$11.85	\$11.85	
NH	ICSolutions	1.20 + .10/min.	.15/min.	.15/min.	\$2.70	\$2.25	\$2.25	
NJ	GTL	.33/min.	.33/min.	.33/min.	\$4.95	\$4.95	\$4.95	
NM	Securus	.65 flat	.59 flat	.65 flat	\$0.65	\$0.59	\$0.65	5
NY	VAC (GTL)	.048/min.	.048/min.	.048/min.	\$0.72	\$0.72	\$0.72	
NC	GTL	3.40 flat	3.40 flat	3.06 flat	\$3.40	\$3.40	\$3.06	
ND	Evercom (Securus)	2.40 + .24/min.	N/A	.34/min.	\$6.06	N/A	\$5.10	6
OH	GTL	3.94 + .88/min.	?	?	\$17.14	?	?	7
OK	VAC (GTL)	3.00 flat	3.00 flat	N/A	\$3.00	\$3.00	N/A	
OR	Telmate	.16/min.	.16/min.	.16/min.	\$2.40	\$2.40	\$2.40	
PA	GTL	3.50 + .50/min.	2.45 + .46/min.	2.33 + .43/min.	\$11.00	\$9.35	\$8.78	
RI	GTL	1.30 + .30/min.	1.30 + .30/min.	1.17 + .27/min.	\$5.80	\$5.80	\$5.22	
SC	GTL	.99 flat	.75 flat	.75 flat	\$0.99	\$0.75	\$0.75	8
SD	VAC (GTL)	3.15 + .43/min.	1.35 + .09/min.	1.35 + .09/min.	\$9.60	\$2.70	\$2.70	9
TN	GTL	3.535 + .6175/min.	?	3.1817 +.55579/min.	\$12.80	?	\$11.52	10
TX	Embarq (CenturyLink) +	.43/min.	.43/min.	.387/min.	\$6.45	\$6.45	\$5.81	
UT	VAC (GTL)	3.00 + .45/min.	3.00 + .45/min.	N/A	\$9.75	\$9.75	N/A	11
VT	PCS (GTL)	1.25 + .15/min.	1.00 + .10/min.	.50 + .10/min.	\$3.50	\$2.50	\$2.00	
VA	GTL	2.40 + .43/min.	2.40 + .40/min.	2.40 + .40/min.	\$8.85	\$8.40	\$8.40	
WA	VAC (GTL)	3.50 + .50/min.	3.50 + .50/min.	3.50 + .50/min.	\$11.00	\$11.00	\$11.00	12
WV	GTL	.85 + .50/min.	.75 + .44/min.	N/A	\$8.35	\$7.35	N/A	13
WI	Embarq (CenturyLink) +	.18/min.	.18/min	N/A	\$2.70	\$2.70	N/A	
WY	ICSolutions	2.80 + .55/min.	2.40 + .50/min.	2.00 + .25/min.	\$11.05	\$9.90	\$5.75	
FBOP	Multiple vendors	2.45 + .40/min.	?	?	\$8.45	?	?	

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

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

Exhibit B (Interstate ICS Rates) – Notes

- 1 Debit calling only; \$9.00 max for calls.
- 2 Under a new ICS contract effective 3/1/13, debit calls will cost 20% less.
- 3 Rates per email from MD DOC; no per-minute charge for first minute of collect interstate calls. ICS contract changed to GTL in March 2013, resulting in new rates.
- 4 Collect rate is per call to GTL on 3/8/13.
- 5 All flat rates are for 20-minute calls.
- 6 \$.30 for the first minute for collect interstate calls, then \$.24/min. thereafter (in addition to the connection/per-call fee).
- 7 Collect rate is per call to GTL on 3/8/13.
- 8 All flat rates are for 15-minute calls.
- 9 Inmate voicemail also available, at \$1.00 for a 60-second message.
- 10 Actual rates are \$3.53525 + .61755/min. collect and \$3.181735 + .555795/min. debit.
- 11 Rates are per call to VAC on 3/8/13.
- 12 Debit rate is per call to VAC on 3/8/13; other rates are per contract.
- 13 Debit calls included in contract but apparently not in practice.

Inmate Calling Service (ICS) Commissions

State	Company	Commission Payments				Percentage in 2012	
		FY 2009	FY 2010	FY 2011	FY 2012		
Alabama	Embarq (CenturyLink)*	\$4,463,686.90	\$4,124,126.47	\$3,530,496.70	\$3,038,002.18	see note	1
Alaska	Securus	84,125.08	74,503.59	83,393.95	85,438.58	7%	
Arizona	Securus	3,723,046.36	3,884,803.26	4,120,894.06	4,314,062.50	53.70%	
Arkansas	GTL	2,394,900.77	2,475,527.50	2,447,253.75	2,010,223.57	45%	
California	GTL	5,985,850.00	NONE	NONE	NONE	NONE	2
Colorado	VAC (GTL)	2,800,132.91	2,464,650.70	2,495,865.97	1,912,792.10	49%	3
Connecticut	Securus	3,590,667.50	3,797,824.40	4,032,757.64	4,212,201.86	68.75%	
Delaware	GTL	1,310,401.78	1,444,827.32	1,195,151.36	998,380.04	40%	
Florida	T-NETIX (Securus)	2,727,756.86	5,374,083.28	5,205,803.74	5,156,269.19	35%	4
Georgia	GTL	7,445,914.55	7,695,712.76	6,284,715.76	5,316,672.82	60%	
Hawaii	Hawaiian Telcom	104,875.00	?	?	?	?	
Idaho	PCS (GTL)	1,248,804.57	1,368,425.38	1,495,963.54	1,441,051.81	see note	5
Illinois	CCPS	10,392,626.00	10,940,246.00	12,649,898.00	12,946,806.00	56%	
Indiana	PCS (GTL)	1,693,965.32	1,547,481.77	1,929,932.14	1,696,977.76	43.50%	
Iowa	PCS (GTL)	1,231,000.00	1,231,000.00	750,000.00	650,972.00	see note	6
Kansas	Embarq (CenturyLink)*	1,814,693.80	1,876,165.29	1,769,540.31	1,839,450.64	41.30%	7
Kentucky	Securus	3,333,168.00	2,706,767.00	2,880,166.00	2,796,139.00	54%	
Louisiana	Securus	3,602,686.75	3,303,407.37	3,289,038.16	3,044,009.33	70%	
Maine	PCS (GTL)	234,329.79	225,504.10	171,379.45	319,383.27	60%	8
Maryland	T-NETIX (Securus)	?	?	?	?	48-60%	
Massachusetts	GTL	1,972,546.06	1,870,044.28	1,706,889.43	1,714,972.89	15-30%	
Michigan	PCS (GTL)	NONE	NONE	NONE	NONE	NONE	
Minnesota	GTL	3,388,860.00	3,470,898.00	3,767,811.00	3,690,953.00	59%	
Mississippi	GTL	2,788,922.59	2,262,203.71	1,945,008.21	1,651,805.23	60.50%	
Missouri	Securus	NONE	NONE	NONE	NONE	NONE	
Montana	Telmate	252,121.02	226,095.50	227,834.67	220,617.00	25%	
Nebraska	PCS (GTL)	NONE	NONE	NONE	NONE	NONE	
Nevada	CenturyLink *	3,033,941.22	2,747,336.97	2,736,802.16	2,706,372.51	54.20%	
New Hampshire	ICSolutions	?	?	?	?	20%	9
New Jersey	GTL	5,106,355.00	3,734,512.00	3,633,197.00	3,877,997.00	41%	
New Mexico	Securus	NONE	NONE	NONE	NONE	NONE	
New York	VAC (GTL)	NONE	NONE	NONE	NONE	NONE	
North Carolina	GTL	7,578,956.67	7,217,875.33	7,464,539.07	6,881,021.44	58%	
North Dakota	Evercom (Securus)	126,245.62	114,110.95	107,516.94	90,435.73	40%	
Ohio	GTL	?	?	15,000,000.00	15,000,000.00	see note	10
Oklahoma	VAC (GTL)	1,240,396.00	1,218,429.88	1,167,318.18	1,017,657.90	76.60%	11
Oregon	Telmate	3,000,000.00	3,000,000.00	3,000,000.00	3,000,000.00	see note	12
Pennsylvania	GTL	7,174,942.65	7,250,923.88	7,361,264.77	585,138.73	44.40%	13
Rhode Island	GTL	NONE	NONE	NONE	NONE	NONE	
South Carolina	GTL	NONE	NONE	NONE	NONE	NONE	
South Dakota	VAC (GTL)	241,839.00	154,767.00	229,398.76	520,332.05	33-38%	14
Tennessee	GTL	2,595,417.00	2,635,599.00	2,916,310.00	2,991,100.00	50.10%	15
Texas	Embarq (CenturyLink)+	224,228.00	4,276,006.00	5,673,568.00	5,893,470.00	40%	16
Utah	VAC (GTL)	798,429.40	699,489.59	745,155.88	765,858.16	45-55%	
Vermont	PCS (GTL)	65,091.87	63,584.34	40,974.59	44,781.29	37%	
Virginia	GTL	4,524,329.69	4,033,303.82	4,104,977.98	3,208,762.44	35%	17
Washington	VAC (GTL)	?	?	?	?	?	
West Virginia	GTL	903,735.30	890,005.21	919,726.80	931,637.16	46%	
Wisconsin	Embarq (CenturyLink)+	2,039,339.45	2,052,346.15	2,171,279.29	2,344,085.34	30%	
Wyoming	ICSolutions	347,512.83	475,976.21	532,305.11	385,340.50	65.50%	18
FBOP	Multiple vendors	7,180,900.58	5,734,687.35	4,255,246.24	3,220,277.21	58%	19
TOTALS:		112,766,741.89	108,663,251.36	124,039,374.61	112,521,448.23		

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

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

Exhibit C (ICS Commission Data) – Notes

- 1 The Alabama DOC uses a “per diem rate” commission system; commission payments are calculated based on a per diem rate x the average prisoner population, per day. Under the DOC’s 2012 ICS contract with CenturyLink, the per diem rate is .572.
- 2 No commissions, but California Technology Agency receives an \$800,000 annual fee from GTL.
- 3 FY2012 commission amount is for 10 months of the FY.
- 4 FY2009 commission amount is only for January through June 2009.
- 5 No commission percentage; the commission is \$2.25 per debit call, \$2.00 per pre-paid collect call and \$1.75 per collect call. Community Work Centers have a 20% commission.
- 6 Not called “commissions,” but the Iowa DOC receives payments from its ICS provider.
- 7 Commission amounts are for calendar years, not fiscal years.
- 8 Uses a calendar year, not fiscal; 2012 amount is through November 2012.
- 9 Commission is \$27,000/month + 20%, starting September 2012.
- 10 Ohio DOC receives a flat/fixed annual commission of \$15 million.
- 11 Commission is a flat rate of \$2.30 per call, which equates to a 76.6% commission based on a flat rate charge of \$3.00 per call.
- 12 \$750,000/quarter plus 50% commission if profit is over \$1.5 million.
- 13 FY2012 commission data is incomplete.
- 14 33-38% on collect calls (varies by distance); \$1.00 commission per debit call (all distances).
- 15 The TN DOC provided updated commission data for FY 2009-2012 on April 12, 2013.
- 16 FY2012 ended on August 31; commission amount is as of August 5, 2012.
- 17 FY2012 commission amount is for 11 months.
- 18 FY2012 commission amount is from January through August 2012.
- 19 Commission does not apply to direct-dial calls; according to the FBOP, most ICS calls are direct-dial.