



October 30, 2013

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TW-A325  
Washington, DC 20554

RE: WC Docket No. 12-375 (Rates for Interstate Inmate Calling Services)

Dear Madam Secretary:

On behalf of the undersigned organizations, we write today to express our extreme disappointment and fundamental concern with the Order and Further Notice of Proposed Rulemaking released by the Federal Communications Commission on September 26, 2013 (“Order”). In this document, the Commission has established arbitrary rules that fail to take into account the unique challenges inherent in providing telephone privileges to inmates.

The Order calls for interim “safe harbor” rate caps of \$0.12 per minute for debit and prepaid calls and \$0.14 per minute for collect calls in all prisons, jails, and immigration detention centers. These rates appear to be primarily based on the Commission’s consideration of data submitted by a coalition of inmate calling service (ICS) providers in 2008, combined with selected subsequent submissions by individual providers and arguments by inmate activists. This data is not comprehensive, however, and establishing such rate caps without comprehensive data is, in our opinion, premature.

Further exacerbating the harm, the Order prohibits any recovery in the prescribed rates by jails and prisons of their costs in administering inmate calling services and monitoring phone calls to protect the public. It is extremely disappointing that the Commission, despite recognizing that jails and prisons incur costs in providing inmates the ability to make calls, has prohibited jail and prison administrators from recovering those costs. If jails and prisons cannot recover their costs they will have no choice but to limit the availability of the service.

In this regard, the Commission has failed to appreciate the complex and specialized environment in which inmate calling services are offered. ICS today cannot be compared with standard common carrier services. The design of the services is nearly always customized to the needs of a particular facility; the service is often fully integrated with facility commissary systems;

individual calls are carefully managed and controlled; and the service integrates specific technological measures required by jails and prisons to ensure facility security and public safety. In its haste to pursue the laudable goal of ensuring that the price of the individual calls to consumers is as low as possible, the Commission has adopted a “one-size-fits-all” common carrier approach that ignores the realities of how ICS is provided today.

Correctional facilities of all sizes must balance the needs of inmates carefully against the need to protect the public. Inmate calling services therefore include security components that have consistently been able to detect criminal activity occurring inside correctional facilities. The importance of these security components cannot be overstated. However, the Order establishes such unreasonably low rates that it places these systems at risk and, consequently, undermines the ability of law enforcement to detect and deter criminal activity.

The Commission’s “one-size-fits-all” approach is especially harmful for inmate calling services in jails. Jails and prisons serve unique populations within corrections and have distinct operational characteristics. Perhaps most relevant is the fact that jails see a significantly higher rate of population turnover as compared to prisons—a fact that Commissioner Pai noted in his dissent. The smaller size of most jails coupled with the high turnover rates means that jails must charge more per minute in order to recover the costs of providing inmate calling services. The Order disregards these realities, imposing unrealistically low rate caps that practically ensure that ICS providers will not be able to recover their costs in smaller, higher cost facilities. We believe that the Order, if implemented, will substantially disrupt and hinder the ability of jails to continue to provide telephone services for inmates.

In closing, we do not oppose ICS reform, including reasonable regulation of ICS rates and fees that inflate the cost to the consumer. However, any such reform must fully consider the critical public safety aspects of ICS, the individualized environment in which services are offered, and the full impacts on safety and security of any particular regulatory approach.

Sincerely,



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Executive Director  
National Sheriffs’ Association



James A. Gondles, Jr.  
Executive Director  
American Correctional Association



Richard W. Stanek  
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