

July 1, 2015

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Notice of Ex Parte Presentation

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: WC Docket No. 12-375

Dear Ms. Dortch:

On June 29, 2015, Darrell Baker, Director, Utility Services Division, Alabama Public Service Commission¹, and Don J. Wood, economic consultant for Pay Tel Communications, Inc., met with Pamela Arluk, Lynne Engledow, Madeleine Findley, Richard Flannery, Rhonda Lien, Bakari Middleton, Thomas Parisi, Miriam Strauss, and Don Sussman of the Pricing Policy Division, Competition Policy Division, and Wireline Competition Bureau to discuss elements of a proposed framework for ICS reform, focusing in particular on the issue of and a proposal for facility cost recovery. Mr. Wood met with the above FCC Staff members in person, while Mr. Baker attended the meeting via telephone.

Baker discussed how his experience with ICS in Alabama informs his view that some form of facility cost recovery is critical. He explained that the APSC regularly inspects ICS at jails and prisons in Alabama and is therefore very familiar with the activities and responsibilities that facility personnel undertake in administering ICS and in monitoring inmate calls. He concludes that facilities incur costs associated with ICS and should be provided an opportunity to recover their costs. Otherwise, Baker believes facilities may impose limitations on inmate access to ICS in order to reduce the resources they are expending to administer and monitor the service.

Baker shared his observation that the existing bid process frequently results in provider selection based primarily on the highest site commissions offered the facility regardless of the ancillary fees and single payment call charges assessed by providers on end users for purposes of supporting their site commission proposal. He concludes, therefore, that facility cost recovery as a percentage of calling revenue provides little incentive for facilities to ensure the end user's economic interests are considered in provider selection. He recommends facility cost recovery

¹ Mr. Baker prefaced his remarks to the Commission by stating that his comments do not necessarily reflect the views of the Alabama Public Service Commission ("APSC"), nor should his comments be construed as a change or contemplated change to the ratemaking policies of the APSC as expressed in its Orders under APSC Docket 15957 (Re: Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service).

on a per minute basis which should incentivize facilities to seek lower end user rates and fees for purposes of stimulating inmate call minutes.

Because billed collect calls constitute a relatively minor and decreasing proportion of inmate calls, Baker and Wood (collectively “they” or “their”) recommend consideration of a composite rate applicable to all inmate call types. Based upon their independent reviews of cost support data filed by providers in response to the Commission’s Further Notice of Proposed Rulemaking, released September 26, 2013, Baker and Wood recommend adoption of a composite rate for prisons and higher composite rates for jails. Their recommendation for jails includes adoption of a tiered rate structure based upon facility size as defined by inmate average daily population (“ADP”). Additionally, Baker and Wood request Commission consideration of a facility cost recovery rate additive for prisons and separate cost recovery rate additives specific to each of their recommended jail tiers.

Using data from the American Jail Association and the Bureau of Justice Statistics, Baker and Wood estimate there were 731,208 jail inmates and 1,574,700 prison inmates at mid-year 2013. There are 3,163 jails. Of those, 1,577 (50%) have an inmate ADP of 100 or less and 2,563 (80%) have an inmate ADP of 350 or less wherein 28% of all jail inmates are held (8.8% combined prison and jail inmates). There are 600 jails (20%) with an inmate ADP of >350 housing 72% of all jail inmates (23% of combined prison and jail inmates).

Baker and Wood presented the “Framework for Consideration,” attached hereto, wherein the parties proposed the following facility cost recovery mechanism for consideration as a component of overall ICS reform:

JAIL ADP	FACILITY COST RECOVERY
0 – 349	\$.07/minute
350 - 999	\$.05/minute
1,000 – 2,499	\$.05/minute
2,500 and above	\$.03/minute

PRISONS	\$.02/minute
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Baker and Wood recommend the facility cost recovery fee as an additive to the per-minute rate which incentivizes vendors and facilities to lower rates in order to spur additional minutes of use; a desirable outcome for inmates and their families. They also explained that average monthly compensation using the recommended cost recovery rates may be significantly lower than existing site commissions depending on jail size and the level of compensation currently received.

Baker and Wood also discussed additional aspects of comprehensive ICS reform, as outlined on the Framework for Consideration document, including a tiered rate structure for jails; restrictions on single-call programs; and prohibitions and/or limitations on ancillary fees. The Framework for Consideration represents a compromise position that the parties would respectfully propose for consideration by the Commission.

Enclosed are copies of the handouts that formed the basis of the discussion in the meeting.

Pursuant to Section 1.1206(b) of the Commission's rules, a copy of this notice is being filed in the appropriate docket.

Please do not hesitate to contact either of us should you have any questions.

Sincerely yours,

/s/ Darrell Baker

Darrell Baker

cc via email to:

Pamela Arluk, Chief of the Pricing Policy Division
Lynne Engledow, Acting Deputy Chief of the Pricing Policy Division
Madeleine Findley, Acting Deputy Bureau Chief, WCB
Rhonda Lien, Attorney, Pricing Policy Division
Bakari Middleton, Attorney, Competition Policy Division
Thomas Parisi, Attorney, Pricing Policy Division
Don Sussman, Telecom Analyst, Pricing Policy Division
Richard Flannery, Intern, Pricing Policy Division
Miriam Strauss, Intern, Pricing Policy Division

PERCENTAGE OF INMATES AND AGENCIES			
ADP JAILS	PERCENT OF INMATES	NUMBER OF AGENCIES	PERCENT OF AGENCIES
1 - 349	8.8%	2,563	80%
350 -999	7.7%	424	13%
1,000 -2,499	11.1%	154	5%
➤ 2,500	4.1%	22	0.5%
PRISONS	68.3%	50 DOCs	1.5%

JAIL COST RECOVERY - INDUSTRY-WIDE PROJECTION

Type	ADP Group	Revenue Producing MOU			Facility Cost Recovery				Number of Facilities	Annual Compensation per Facility	Monthly Compensation per Facility
		Debit/Prepaid	Collect	Total	\$0.03	\$0.05	\$0.07	TOTAL			
JAIL	0-349	382,815,600	40,974,921	423,790,522			\$ 29,665,337	\$ 29,665,337	2,563	\$11,574	\$964.54
	350-999	557,842,765	39,563,311	597,406,076		\$ 29,870,304		\$ 29,870,304	424	\$70,449	\$5,870.74
	1000-2,499	919,367,926	65,621,546	984,989,472		\$ 49,249,474		\$ 49,249,474	154	\$319,802	\$26,650.15
	2,500+	331,472,790	23,659,469	355,132,259	\$ 10,653,968			\$ 10,653,968	22	\$484,271	\$40,355.94
		2,191,499,081	169,819,247	2,361,318,329	\$ 10,653,968	\$ 79,119,777	\$ 29,665,337	\$ 119,439,082	3,163	\$37,761	\$3,146.78

FRAMEWORK FOR CONSIDERATION

JAIL ADP	RATE CAP	FACILITY COST RECOVERY	MAXIMUM TOTAL RATE
0 – 349	\$.22/minute	\$.07/minute	\$.29/minute
350 - 999	\$.20/minute	\$.05/minute	\$.25/minute
1,000 – 2,499	\$.18/minute	\$.05/minute	\$.23/minute
2,500 and above	\$.16/minute	\$.03/minute	\$.19/minute

PRISONS	\$.08/minute	\$.02/minute	\$.10/minute
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Notes:

Collect calls would now be capped at the same level as Prepaid and Debit calls.

All calls are billed in one minute increments; flat rate charges for an assumed number of minutes are not permitted.

Restrictions on Single Call programs: Programs which allow the called party to pay for a single call without establishing a prepaid collect account (e.g., billing directly to credit/debit card) may only be offered as follows: (1) the total charges may not exceed the applicable per-minute Rate Cap plus Facility Cost Recovery per minute for the *actual call duration* plus the permissible ancillary charge for an automated payment; and (2) the provider must clearly disclose the option to set up a prepaid account to the consumer at the beginning of each call.

Ancillary Fees:

All Fees would be prohibited except:

Account Setup via IVR/Web	\$3.00
Account Setup via Live Agent	\$5.95
Debit Transfers	5%

Money Transfer Fees must be at the lowest commercially available rate with no revenue sharing or additives.

State Actions:

States must bring regulations into compliance by the end of the transition period or inconsistent regulations will be subject to preemption. State action that is consistent with the regulations that the Commission adopts would not be subject to preemption.