

**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)	CC Docket No. 96-128
)	
Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in Pending Rulemaking)	DA 03-4027

**CORRECTED STATEMENT OF INTEREST AND COMMENTS ON ALTERNATIVE
RULEMAKING PROPOSAL REGARDING INMATE CALLING SERVICES
FILED BY NORTH CAROLINA PRISONER LEGAL SERVICES, INC.**

Pursuant to the notice published by the Federal Communications Commission on 2 March 2007, and the FCC Order filed 21 March 2007 extending the time for the submission of comments in this proceeding through 2 May 2007, North Carolina Prisoner Legal Services, Inc., submits the following comments in support of the *Alternative Rulemaking Proposal Related to Inmate Calling Services* submitted by *Martha Wright, et al.* (Petitioners) on March 1, 2007.

North Carolina Prisoner Legal Services (NCPLS) is a non-profit, public service law firm that provides legal advice and assistance to people incarcerated in this State. NCPLS addresses matters involving inhumane conditions of confinement or illegal criminal convictions and sentences. Providing North Carolina inmates with information about their legal rights and responsibilities, NCPLS works to reduce frivolous litigation and to resolve legitimate problems through administrative channels. When serious problems cannot be resolved administratively, NCPLS offers legal representation in all

State and Federal courts throughout North Carolina, and beyond. The program has a staff of 37, which includes 17 lawyers, 14 paralegals, and 6 support staff members.

Encompassing some 52,669 square miles, North Carolina incarcerates more than 38,000 people in 78 prisons operated by the North Carolina Department of Correction (NC-DOC). With 100 counties, almost each of which has a jail and/or a municipal lock-up, on any given day an additional 14,000 people are detained pending trial (with some 250,000 annual admissions).

The distance between correctional facilities in North Carolina makes it difficult to communicate with our clients, except by mail.¹ Policies of the NC-DOC discourage telephone communications between prisoners and their clients except “where legal deadlines make a personal visit or correspondence impractical . . . [in which case] attorneys may initiate a request with the Department’s legal section for approval to contact inmates/clients by telephone.”² Moreover, “All telephone calls will be collect and may be monitored. . . . Inmates are not allowed to receive telephone calls. Inmate telephone use is a privilege which may be restricted for disciplinary purposes.”³ And, pursuant to a contract between the Department of Correction and AT & T, the phone company is paying a 30% commission for public pay phones (in visitation rooms or officers lounges, for example) and a 55% commission for prisoner-initiated phone calls.

¹ Unfortunately, approximately 40% of the national prison population is functionally illiterate. The Center on Crime, Communities & Culture, *Education as Crime Prevention: Providing Education to Prisoners*, Research Brief: Occasional Paper Series 2 (Sept. 1997).

² NC Dept. of Correction Inmate Rule Book, 18 (B)(2), p. 23.
<http://www.doc.state.nc.us/FamilyServices/index.htm> (last accessed 12 April 2007).

³ NC Dept. of Correction Inmate Handbook for Family and Friends, “Can inmates use the Telephone?” at p. 23. This demonstrates the use of telephones by the NC-DOC as a mechanism to control the conduct of prisoners – both as an incentive and as a punitive measure.
<http://www.doc.state.nc.us/FamilyServices/index.htm> (last accessed 12 April 2007).

That means that our clients' families, attorneys, and others are paying almost twice as much in commissions as the general public.

Jail and detention facilities throughout the state generally enter into similar contracts with various carriers based upon the promise that the carrier will provide services exclusively in exchange for payment of the highest possible commission (at a financial and emotional cost to prisoners and their families.)

Thus, exorbitant charges impede communication with family and friends, disrupt ties to communities, and inhibit a prisoner's right to guaranteed constitutional rights (*e.g.*, the right to petition the courts for the redress of grievances and the right to counsel).

With limited resources, and given the excessive cost of prisoner telephone calls, NCPLS declines to accept all but emergency calls. Our inability to accept such calls increases the time it takes to resolve client concerns and sometimes engenders litigation simply to preserve our clients' rights.

The record in this case is replete with citations to findings of various studies, correctional agencies, and professional organizations that the maintenance of ties between a prisoner and the family are key to a successful transition into the community after release from prison, and that telephones are essential to the realization of that objective.⁴

⁴ See, *e.g.*, Federal Bureau of Prisons Policy Statement PS5264.06 (Telephone Regulations for Inmates); the National Sheriffs' Association (Resolution of 14 June 1995); The American Correctional Association (ACA), *Resolution on Excessive Phone Tariffs* (October 1996); *Public Correctional Policy on Inmate/Juvenile Offender Access to Telephone* (ACA 2001) and related standards (ACA 2002)(incorporated into standards manuals for 11 types of correctional facilities; and American Bar Association Policy (August 2005); and the report of the Vera Institute of Justice-sponsored Commission on Safety & Abuse In America's Prisons, "*Confronting Confinement*," pp. 36, 39, *passim* (June 2006).

But as an important component of both maintenance of order and security in a correctional facility,⁵ and as a tool that diminishes recidivism, telephone usage that imposes excessive charges impinges upon these objectives and the ability of prisoners to keep in touch with their families and others, all of whom are being exploited by monopolistic practices. It is clear that competition and market forces have failed to resolve this long-standing problem, and that prompt remedial action is needed through regulation by the Federal Communications Commission.

CONCLUSION

Contracts for telephone services in correctional settings are negotiated and agreed between correctional facilities or entire correctional systems and the carrier. These contracts are exclusive and provide the correctional facilities sources of substantial revenue through “commissions” paid on the gross revenue for all calls. Often, the parties seek no input from, nor give any consideration to the interests of prisoners or the citizens (family members, friends, or attorneys) who will receive and pay for the calls. Prisoners and citizens generally have no choice but to accept the terms agreed upon between the correctional facility and the carrier if they place or accept any prisoner-initiated call.

The Alternative *Wright* Petition gives the FCC an opportunity to take meaningful steps to remediate excessive inmate phone service rates and expand the calling options available to inmates and the people they call (*e.g.*, by adopting bench-mark rates that disallow surcharges and require an expansion of available services, such as debit account and debit card calls). At a minimum, NCPLS requests that the Commission provide the relief requested in the Alternative *Wright* Petition by ensuring reasonable long-distance

⁵ See *supra*, footnote 2 and accompanying text.

rates on inmate-initiated calls through establishment of an interstate interexchange benchmark, eliminating surcharges, and requiring the broadest possible range of calling options (including debit card and debit account calls).⁶

Respectfully submitted this ____ day of April, 2007.

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CERTIFICATE OF SERVICE

I, Michael S. Hamden, hereby certify that a copy of the foregoing CORRECTED STATEMENT OF INTEREST AND COMMENTS ON ALTERNATIVE RULEMAKING PROPOSAL REGARDING TO INMATE CALLING SERVICES FILED BY NORTH CAROLINA PRISONER LEGAL SERVICES, INC., has been served by placing the document into an envelope, first-class postage pre-paid, and depositing the envelope into a receptacle for delivery by the United States Postal Service, and addressed as follows:

⁶ It is doubtful that the relief sought in the Alternative *Wright* Petition (which would apply only to long-distance calls initiated by an inmate from a private correctional facility) would definitively resolve all of the issues intertwined with the pervasive problems of excessive telephone pricing schemes in the correctional setting. However, a comprehensive resolution might be achieved through blending the interests of the public in “just and reasonable” charges, practices, and regulations (found in Section 201) with the legitimate interest of service providers to receive “fair compensation” for telephone calls (Section 276 of the Communications Act). These legislative mandates apply to all calls, whether inter-state or intra-state, local or long distance; or whether in government or privately operated correctional facilities, (including prisons and local jails). These statutes provide a basis upon which the FCC could grant not only the relief sought in the Alternative *Wright* Petition, but they also authorize the FCC to address and resolve these issues in a comprehensive fashion. Such an approach would require only the establishment of “just and reasonable” benchmark rates which apply to “each and every call” (with a procedure through which service providers can attempt to justify a need for cost-based adjustments under specifically designated circumstances). Such a benchmark would eliminate surcharges, apply to calls of all types, and would require the broadest possible range of calling options (including debit card and debit account calls).

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