

## FCC increases rate caps for prison phone calls; HRDC quoted

GTL Says FCC Order 'Did Nothing' to Resolve ICS Dispute; Hamden Disappointed

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Global Tel\*Link said the FCC's inmate calling service rate cap increases fail to achieve a lasting solution, and an advocate for inmate families also was critical. But other advocates said the new rate caps would expedite relief for inmate families, given ongoing litigation that blocked ICS rate caps of 11-22 cents per minute in a 2015 agency order. Commissioners Thursday voted 3-2 to approve an order to raise the ICS rate caps to 13-31 cents per minute to account for correctional facility costs (see 1608040037).

"The FCC's latest ICS regulation of the [ICS] marketplace, though well intentioned, continues the Commission's unfortunate history of arbitrarily defining rate caps that do not adequately account for the true costs of administering ICS service," emailed GTL CEO Brian Oliver Friday. "Comprehensive ICS reform must take into account the positions of all stakeholders and the information that they have submitted... Yesterday's FCC Open Meeting did nothing to move us forward to the ultimate goal of achieving a comprehensive solution to establish lasting and just regulations in the ICS marketplace."

Criminal defense attorney Michael Hamden said he was disappointed the FCC didn't address "the underlying dysfunction" in the ICS market, though he appreciated concerns expressed by commissioners about the situation. "Site commission payments will likely continue to drive the exorbitant cost of ICS higher," emailed Hamden, of Chapel Hill, North Carolina, whose petition for reconsideration the FCC cited as helping spark the new order. "That pay-to-play monopoly scheme will be permitted to further exploit prisoners and their families, making it even more difficult for prisoners to maintain ties and reintegrate into their communities."

The agency seems to believe it lacks the authority to regulate site commissions, Hamden said, but believes accounting for ICS administrative costs will shore up the rules from its 2015 order. That order's rate caps were stayed in court pending further review of legal challenges from industry, states and sheriff groups. "However, the Commission earlier concluded that site commissions are not a legitimate cost in the delivery of ICS, and there are no reliable facility cost data in the record," he emailed. "It is unclear how the administration of ICS services differs from other services correctional authorities must provide without compensation. (For example, there is no fee for the delivery of mail to a prisoner.)" He said it's unclear if the latest action would improve the agency's litigation position.

The Human Rights Defense Center (HRDC) trained its fire on ICS providers that have "preyed upon" prisoner families and challenged the FCC's previous rules in court, securing the court stay

of the rate caps. “Not only did the new rate caps not go into effect, but at least one ICS provider—Securus—has increased the rates for in-state calls to ‘offset fees that have been eliminated or reduced,’” said an HRDC statement. Securus didn’t comment Friday.

The FCC vote “set rates higher than the initial caps, [but] the FCC’s action should bring much needed rate relief to families more quickly than waiting for the appeal process to conclude,” said HRDC Executive Director Paul Wright. “This action was the direct result of the relentless greed of ICS providers and the government agencies that run detention facilities.” The Wright Petitioners Thursday welcomed the FCC action as expediting regulatory relief for inmates and their families.

HRDC said even the FCC’s previous lower rate caps are higher than rates charged in a number of state prison systems. It said at least nine states have rates [at or] below 5 cents per minute: West Virginia, Virginia, New Mexico, New Jersey, New Hampshire, Rhode Island, New York, Minnesota and Ohio. “We would have preferred to see the rate caps lowered rather than increased,” said HRDC Associate Director Alex Friedmann. — David Kaut