

ATTACHMENT A

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)	
)	
Implementation of 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
)	

REPLY DECLARATION OF DOUGLAS A. DAWSON

Douglas A. Dawson declares as follows:

INTRODUCTION

1. My name is Douglas A. Dawson, and I am the President of CCG Consulting, Inc. ("CCG"), located at 6811 Kenilworth Ave., Suite 300, Riverdale, Maryland, 20737. I previously filed an affidavit in this proceeding in support of the Petition for Rulemaking submitted by Martha Wright, *et al.* ("Petitioners") in this docket.

2. In reviewing the record regarding the Petition for Rulemaking ("Wright Petition"), the Commission should keep in mind that the goal of the Wright Petition and my previous affidavit was to show that there are reasonable alternatives to the current exclusive service arrangements available for providing prison calling that would drive down long distance rates charged to prisoners and families of prisoners. I am not suggesting that the alternative set forth in the Wright Petition and my previous affidavit is the only possible solution, but, rather, constitutes at least one reasonable alternative. Many parties have criticized the proposal, under which an underlying inmate telephone system provider would process all inmate calls and

perform all security functions and then hand off long distance calls to one of multiple competitive carriers at a secure interconnection point, because it did not address every possible nuance and detail. Because the beneficiaries of the current system -- the private prison administrators and exclusive inmate service providers -- are in sole possession of all of the facts necessary to a more detailed technical presentation and cost analysis, it was not possible to do more in my initial presentation. Moreover, the purpose of the affidavit was to set forth a reasonable basis for initiating a rulemaking concerning the issues presented, rather than to resolve all of the issues immediately.

3. Other parties in the docket have challenged the analysis in my affidavit concerning prison security, the role of local calling, the administrative efforts required by prisons to implement changes, economy of scale issues related to prison size, what to do with older equipment that cannot handle a new environment, commission payments, new regulations, the strength of existing competition, start-up costs, the cost of prison calling, and other minor issues. I will address each of these issues in this reply.

SECURITY ISSUES

4. A number of parties, including MCI, AT&T, the Corrections Corporation of America ("CCA"), Evercom and T-NETIX raised the issue of security. There were two basic security issues raised. First, opponents imagine that the prison administrators would have much less control over calls handed off to the interconnected competitive carriers than they do over calls handled by the exclusive provider under the current system and that the proposed competitive approach thus could not provide adequate security.¹ A few parties also made specific comments about security issues associated with debit calling.

¹ See, e.g., MCI Comments at 23 ("[w]ith multiple carriers interconnected at the ICS provider's platform, the ability of DOCS to obtain ... information ... would be even further frustrated."); T-NETIX Comments at 8, 25-27; CCA Comments at 29-30; APCTO Comments at 14-15; Joint Declaration of Peter K. Bohacek and Charles J. Kickler Jr. at ¶¶ 3, 17-20 ("Bohacek and Kickler Decl.") (attached to CCA Comments). The initial comments on the Wright Petition will be cited in this abbreviated manner.

5. As to general security issues, Petitioners completely agree with the goals stated by all of the other parties. Any solution that is implemented for prisons should not create new security problems and should maintain existing security provisions. The proposal set forth in the Wright Petition and my previous affidavit meets those criteria. Under that proposal, one underlying carrier would be responsible for the prison telephone system. The underlying provider, and the basic prison telephone system operated by that provider, would be expected to meet all of the same security requirements that each prison has in place today. Some parties were concerned that additional security issues would be raised by handing off calls for completion to one of a number of interconnected carriers. The proposal makes it clear, however, that this hand-off must be done in a manner that ensures that the underlying prison phone provider retains full control of the call from its switch. The underlying provider would first perform whatever security measures are required at the outset -- *e.g.*, checking called numbers against a pre-approved list, checking on the current status of the prisoner's calling rights and making certain that calls cannot be transferred, re-originated or forwarded. The interconnected carriers that terminate the call would not get the call until the underlying provider (and the prison officials) are satisfied that all of these security functions are performed.

6. Moreover, the use of interconnected long distance carriers in the secure manner proposed in my previous affidavit is perfectly consistent with the maintaining of security functions, as demonstrated by the opponents' use of other carriers to complete their inmate calls today. Evercom and T-NETIX, which do not have nationwide networks, hand off their long distance inmate traffic (a "majority" of its inmate traffic in the case of Evercom) to a variety of other interexchange carriers ("IXCs") today, requiring the interconnected IXCs to track calls.² If their use of other carriers does not undermine security currently, it is clearly feasible to hand off

² See, *e.g.*, Declaration of Robert L. Rae at ¶ 7 ("Rae Decl.") (attached to Evercom Comments); CapAnalysis, "Mandatory Unbundling: Bad Policy for Prison Payphones" at 12 ("an inmate service provider purchases the needed long distance services at the same low rates as any other user with the same call volume") ("CapAnalysis") (attached to T-NETIX Comments).

long distance inmate calls over a secure interconnection without breaching security. The interconnected carriers could be contractually required to coordinate with the underlying system provider to ensure that security over all long distance calls is maintained end-to-end. As to security functions, therefore, all that would change under the Petitioners' approach is the point of the hand-off and the additional interconnection of the few IXCs not already serving inmate service providers that would seek to enter the market. The underlying provider's switch would maintain control over the interconnected calls, just as the exclusive provider's switch does today.

7. Opponents' security-based criticisms are therefore based on incorrect assumptions. For example, the Ohio Department of Rehabilitation and Corrections ("Ohio DRC"), the New York State Department of Correctional Services ("New York DCS") and APCTO all assume that the interconnected IXCs would have no contractual relationship with the underlying service provider or the prison administrator.³ There is no reason to assume, however, that the interconnected carriers could not be required to meet all of the security obligations required of the terminating carriers that inmate service providers use under the current regime and to commit to such obligations in a written contract with the underlying provider and prison administrator. Such commitments could include the sharing of billing information, to which inmates would have to agree before using a new carrier for a collect call, and the exclusive use of properly programmed "entrance" switches (*i.e.*, the first switch within the carrier's network at which an inmate call is received) for the routing and tracking of all inmate calls. Thus, all of the security functions discussed by the Ohio DRC would continue to be performed by the underlying provider and, as to those functions that must be maintained end-to-end -- such as call tracking -- by the interconnected carrier handling each long distance call.⁴

³ Affidavit of Richard L. Swain at ¶ 11 ("Swain Aff.") (attached to ODRC Comments). *See also* NYSDCS Comments at 10 (assumes no contractual relationship between IXC and administrator); Affidavit of Robert E. Koberger at ¶ 16 ("Koberger Aff.") (attached to NYSDCS Comments); APCTO Comments at 14.

⁴ ODRC Comments at 4.

8. Because the competitive carriers would interconnect directly with the underlying system provider at a secure interconnection point, either within the prison facility or at a location under the control of the underlying provider, the underlying provider's switch -- and, through the system provider, the private prison administrator -- would be able to maintain complete control over every interconnected call. Moreover, because complete control over all service providers at a facility could be retained by the administrator through contracts with each of them, as well as contracts between the underlying service provider and each of the interconnected carriers, all of the current information gathering and coordination between prison administrators and inmate service providers discussed by the New York DCS would be handled equally efficiently under the proposed approach.⁵

9. The proposed system, like the current exclusive provider system as described by T-NETIX, would "expressly prevent[] inmates from reaching alternative service providers that necessarily fall outside the primary carrier's secure platform."⁶ Inmates would not be able to access other carriers' platforms not under the control of the secure interconnection, and interconnecting carriers could be required to ascertain and provide information about the termination location of every call.⁷ Petitioners' proposal thus recognizes and accommodates the unique security needs of prison facilities at least as well as the current system. Opponents consistently overlook this point and thereby criticize a proposal that Petitioners have not submitted.⁸

⁵ NYSDCS Comments at 13-14.

⁶ T-NETIX Comments at 9 (characterizing the current exclusive provider system).

⁷ See NYSDCS Comments at 14.

⁸ See, e.g., T-NETIX Comments at 20-24. T-NETIX's statement, that the Commission would have to issue rules requiring the competitive interconnected carriers to comply with call security and law enforcement requirements also incorrectly assumes that the prison administrators and underlying system providers could not maintain as much control over the interconnected carriers through contracts as prison administrators exercise today over exclusive service providers. *Id.* at 36.

10. Thus, contrary to Evercom's characterization of Petitioners' proposal as a form of billed party preference ("BPP"),⁹ which has already been rejected by this Commission, Petitioners have not proposed BPP. Under BPP, prisoners would have direct, uncontrolled access to multiple carriers' platforms. To do so would bypass most of the security measures that are in place today. Under Petitioners' proposal, however, there will be only one underlying carrier that has direct connectivity to prisoners and that retains control over each interconnected call. The proposal simply adds equal access in the terminating portion of a long distance call. Unlike a BPP scheme, the underlying provider could not be bypassed and would maintain total control of direct connectivity to the prisoners and over the entire call, to the same extent as service providers do today.

11. It must be kept in mind that any rational analysis of service providers' ability to meet security goals under the Petitioners' approach should be measured against the admittedly imperfect current system, not perfection. Moreover, in the early stages of any competitive system, the roughly 20 current inmate service providers would be likely to predominate among the carriers seeking to interconnect with underlying prison service providers, thus providing additional assurance of the necessary qualifications.¹⁰

12. The second set of security issues relates to the creation of debit call platforms. Several parties argued that it should not be mandatory to have a debit card platform in prisons, and most of those cited security issues as a reason for this.¹¹ Many prisons today, however, including all federal prisons and some managed by CCA and served by the carriers submitting

⁹ Evercom Comments at 5.

¹⁰ See Rae Decl. at ¶ 4 (over 20 competitors in the inmate calling service market) (attached to Evercom Comments).

¹¹ See AT&T Comments at 9; CCA Comments at 16-22; Bohacek and Kickler Decl. at ¶¶ 21-24 (attached to CCA Comments); Evercom Comments at 11; MCI Comments at 20-23; T-NETIX Comments at 32-33; CapAnalysis at 23 (attached to T-NETIX Comments); NYSDCS Comments at 9-12.

comments in this proceeding, already have debit platforms in place. Obviously, these prisons have found working solutions for debit platforms that do not create security issues. The one security issue that might be created with a debit account is the ability for prisoners to extort calling from another prisoner's account. There are a number of ways that such extortion can be minimized and eliminated, however, and many prisons have already addressed these issues. For example, allowing prisoners to call only a pre-defined and pre-approved list of numbers greatly reduces the desirability of a prisoner's account to other prisoners. As with the other issues raised by other parties, reasonable solutions can be found that maintain security.

LOCAL CALLING

13. Some parties complain that Petitioners did not address local and intrastate toll calls.¹² Although local calling must be accounted for in working out the details of any inmate calling system, Petitioners do not have a preference as to how local calling should be handled. Accordingly, local calling was not the subject of the relief requested by the Wright Petition. It would probably be most efficient for the underlying prison telephone provider to be responsible for delivering local calls. There would be little advantage in having multiple carriers be allowed to deliver local calls. Most prisons have flat rate local calling, and the price charged for those calls is not as significant an issue as the cost of long distance calling. Petitioners do not have a strong opinion about the role of local calling, however. If other parties can show, for example, that the competitive interconnected carriers should handle local calls in order to make the competitive system economically viable, Petitioners would certainly have no objection.

ADMINISTRATIVE REQUIREMENTS TO BE BORNE BY PRISONS

14. A number of parties expressed the opinion that the proposal in the Wright Petition and my affidavit would increase administrative costs for prisons.¹³ This is not necessarily the

¹² See, e.g., T-NETIX Comments at 25; CCA Comments at 31; Bohacek and Kickler Decl. at ¶ 15 (attached to CCA Comments).

¹³ See, e.g., T-NETIX Comments at 25-26, 32-33; Affidavit of Alan Schott at ¶ 36 ("Schott Aff.") (attached to T-NETIX Comments); CCA Comments at 18-20; Bohacek and Kickler Decl.

case. It would be quite feasible for prison administrators to require the underlying telephone provider to bear the cost and any extra burden arising from any changes. For example, the underlying provider logically should be required to bear the cost of connecting with and settling with any competing IXCs terminating long distance calls. There would be no reason to expect the prison facility to bear a typical telecommunications cost of that nature. As explained below, the interconnection of additional IXCs should not be disruptive to prison facilities. The prison facility and the underlying provider could also agree to make the underlying provider responsible for administering and maintaining any debit system. In many prison contracts today, the underlying telephone provider is fully responsible for every aspect of the cost of calling, including handling the debit accounts. While not all prisons elect to push all of the cost burdens onto the underlying provider, enough have done so to demonstrate that this is a reasonable alternative. Of course, any prison that wanted to accept the additional cost and effort of administering debit accounts would be free to do so, but the Commission should not require this cost to be borne directly by the prison. Presumably, the allocation of burdens and costs between the prison facility and the underlying service provider would be reflected in their contract terms and conditions.

15. The CCA has also said that dealing with multiple carriers would be a “nightmare.”¹⁴ There is no justification for such a characterization. As explained above, prison administrators do not need to bear any additional responsibility or burden arising from the presence of multiple interconnected carriers. The administrators could make the underlying provider responsible for security, and the underlying provider could impose on the interconnected carriers whatever requirements are reasonably necessary to maintain control of each call to the same extent that inmate service providers do today. As additional “leverage” over the

at ¶ 21 (attached to CCA Comments); APCTO Comments at 15-16; Swain Aff. at ¶ 6 (attached to ODRC Comments).

¹⁴ CCA Comments at 20.

interconnected carriers, a prison administrator could require them to commit to the administrator, as well as to the underlying system provider, in writing to maintain security over all calls they carry. These arrangements would certainly be no burden for the underlying system provider or the interconnected carriers. I work with hundreds of carrier clients today, and all of them have contracts with other carriers to exchange traffic or services. Carriers are very used to these arrangements, and they routinely pay each other for performing various functions. The underlying carrier would have all of the records needed to compensate the interconnected carriers. This is not a complicated arrangement, and it is the sort of billing arrangement that is pervasive throughout the industry today.

ECONOMY OF SCALE ISSUES

16. Several parties have addressed the issue of economies of scale. T-NETIX states that I used the “wrong” size for prisons.¹⁵ Opponents also argue that the interconnected carriers will not be able to realize the same cost savings they do now because they will be handling interconnected calls only from some of the inmates at any given facility.¹⁶ As stated in the Wright Petition,¹⁷ however, local jails and prisons under a certain threshold number of inmates would be exempt from the proposed system.¹⁸ Evercom indicates that currently, it is typically able to provide all security functions only for facilities holding 50 or more prisoners.¹⁹ That may be a useful threshold measure. Eliminating all prisons under 50 inmates will raise the average

¹⁵ T-NETIX Comments at 25-26. *See also* CCA Comments at 31; Bohacek and Kickler Decl. at ¶ 16 (attached to CCA Comments).

¹⁶ *See, e.g.*, Bohacek and Kickler Decl. at ¶ 25 (attached to CCA Comments).

¹⁷ Wright Petition at 21 n.51.

¹⁸ Companies serving multiple facilities, of course, might choose to include the smaller facilities they serve in their competitive systems, simply to reduce per minute administrative costs. Evercom’s concern that the universe served by Petitioners’ approach would be too small to realize efficiencies thus is unrealistic. Evercom Comments at 9.

¹⁹ Rae Decl. at ¶ 23 (attached to Evercom Comments).

size of the remaining universe. Also, privately administered prisons, which are the only prisons addressed by the Wright Petition, tend to be larger than local jails and county facilities in any event. That is why I did not attempt in my affidavit to estimate the average size of all prisons. Although my affidavit analyzed three specific prisons, none of the opponents has provided credible data showing that those three facilities are not representative of privately administered prisons. For facilities below the threshold, the marketplace could define where competition will and will not work, rather than trying to force new rules where it would make no sense to do so. Moreover, as is the case now, service providers would compete to provide the underlying inmate telephone systems in multiple prisons operated by each private prison entity, and a few providers would emerge with large shares of the total private prison market, thereby enabling them to realize the same or greater economies of scale than they experience now.

OLDER TELEPHONE SYSTEMS

17. Several parties also pointed out that some older telephone systems in prisons would not be able to handle the switching of calls to multiple interconnected carriers.²⁰ The cost analysis in my previous affidavit, however, included the price of a new switch in calculating total costs. The assumptions used in the analysis were chosen on a worst case basis, since many prisons would not need to abandon the current switch. Presumably, there would be some time period allowed for carriers to update switches; there would not be a flash-cut to new equipment. The existence of older equipment in the marketplace is not a valid reason for rejecting Petitioners' proposal.

COMMISSIONS

18. Several parties pointed out that the cost analysis in my previous affidavit did not acknowledge commission payments as a cost.²¹ This Commission has found that commissions

²⁰ See, e.g., T-NETIX Comments at 27; Schott Aff. at ¶¶ 8, 22-23 (attached to T-NETIX Comments).

²¹ See, e.g., T-NETIX Comments at 31-32; CCA Comments at 34; Evercom Comments at 8-9; Rae Decl. at ¶¶ 30-32 (attached to Evercom Comments); MCI Comments at 27.

paid by inmate service providers to prison administrators are to be considered an element of profit. I therefore did not consider them in calculating the cost of prison calling. Rather, commissions are a large part of the problem of high long distance rates in prisons, and they should be capped or eliminated.

THE NEED FOR EQUAL ACCESS

19. T-NETIX argues that the Wright Petition and my affidavit recommend a complex “TELRIC for prisons” unbundling.²² As explained above, the proposal is much simpler than that. The Wright Petition is asking for equal access for inmate long distance calling, similar to what has been enjoyed by the rest of the telephone world. Equal access was put in everywhere without unbundling or TELRIC requirements. The Commission should step in to end the last pocket of telephone monopoly.

EXISTING COMPETITION

20. Evercom insists, against all of the available evidence, that there is no need for the Commission to take action because “there is today healthy competition in the provision of inmate calling services that benefits the users of those services (i.e., the inmates and the parties that they call),”²³ a claim echoed by T-NETIX, which states that the RFP process is already “robust.”²⁴ T-NETIX also argues that the bid competition for exclusive contracts forces service providers to be as efficient as possible in order to increase profits.²⁵ Evercom and T-NETIX assert that a successful bidder under the current system can combine the services it provides to many prisons on an exclusive basis and offer a reduced rate as a result of economies of scale, which could not

²² T-NETIX Comments at 33-34; CapAnalysis at 15 (attached to T-NETIX Comments).

²³ Evercom Comments at 4.

²⁴ T-NETIX Comments at 16-18; CapAnalysis at 8-14 (attached to T-NETIX Comments).

²⁵ T-NETIX Comments at 17.

be done if carriers had to compete for individual inmate customers.²⁶ T-NETIX adds that such competition would force carriers to increase their marketing efforts, which would result in increased rates.²⁷ The problem with those points is that although inmate service providers could offer lower inmate calling rates based on economies of scale, as in the case of any other monopolist, they in fact do not do so because the profit maximizing price is always much higher than the rate that just covers all costs. Their efficiencies thus are not reflected in the rates charged to end users, but only in the upwardly spiraling commissions they pay to prison administrators and their own profits. Moreover, each carrier could continue to compete for the same volume of traffic under the competitive scheme outlined in the Wright Petition as it serves now, except that it would compete to provide the underlying system, rather than all inmate traffic, at each facility and for each inmate's long distance business at every facility. Marketing costs would be negligible, given inmates' and families' readiness to seize cost-cutting opportunities.

21. Emblematic of the current monopoly abuse is Robert Rae's statement that Evercom, aware of the impact of its high rates on inmates and families, "does not allow the inmates to place calls at a frequency or duration that would put them in a position where their families could not afford to pay the bill."²⁸ Inmates and families do not need this sort of paternalistic protection from service providers. If prison calling rates were competitive, they would be much lower than what Evercom and other service providers charge today, and Evercom would not have to protect inmates and families from the urge to communicate at its exorbitant rates.

²⁶ Evercom Comments at 4; T-NETIX Comments at 17-18.

²⁷ T-NETIX Comments at 18.

²⁸ Rae Decl. at ¶ 13 (attached to Evercom Comments).

START-UP COSTS

22. A number of parties said that my previous affidavit did not address start-up costs.²⁹ By start-up costs, they are referring to the costs to the underlying prison telephone provider to change its systems to comply with any Commission mandated change. Start-up costs should be recovered, and the depreciation figures in the cost analysis in my previous affidavit included capitalized start-up costs.³⁰ Most current inmate service providers serve a large number of prisons. For example, Evercom serves over 2,000 facilities. Start-up costs for such a carrier adapting its system to the approach proposed in my previous affidavit, while not insignificant, will not be very high on a per-prison basis. As an example, should Evercom incur a \$10 million cost to modify its software to allow equal access, this amounts to only \$5,000 per prison. Amortized over time and many minutes of inmate calls, this is insignificant.

23. Similarly, research and development costs and other costs for implementing the proposed approach (or almost any solution that changes the way inmate calling service is provided) are included in the capital costs that are depreciated in my previous affidavit. The underlying telephone provider would incur such costs. The rate to be charged by the underlying provider should be set to allow it to recover all of its costs, and those costs would include start-up costs, amortized over time.³¹ The cost analysis in my previous affidavit includes all legitimate costs.

²⁹ See, e.g., Schott Aff. at 24-27 (attached to T-NETIX Comments); Bohacek and Kickler Decl. at ¶¶ 22, 34 (attached to CCA Comments); Evercom Comments at 5-6.

³⁰ See Dawson Aff. at ¶¶ 53-55.

³¹ As noted below, the depreciation figure in my previous affidavit is substantially higher than the comparable amount shown in MCI's comments, which is further confirmation that my figures leave more than enough for research and development and start-up costs.

OTHER COSTS OF PRISON CALLING

24. A number of the prison providers challenged the cost estimates in my previous affidavit.³² Except for MCI, however, none of them provided contrary estimates. Although I am an expert in telephone costs and have helped hundreds of companies over the years understand their costs, I did not have detailed accounting information available from the prison providers, as I admitted in my affidavit. Instead, I had high-level expenses from Evercom's 10-K filing and audits and some estimates of costs filed at the Commission by the Inmate Calling Services Providers Coalition, of which Evercom and other parties in this case are members. The estimates in my previous affidavit were extremely conservative, and, after reviewing MCI's cost estimates and the other comments, I realize that some of my estimates were probably too high. As discussed below, some costs apparently are even lower than shown in my previous affidavit. Even if total costs were somewhat higher than shown in my previous affidavit, however, they would still be far lower than the rates that are being charged in many prisons today.

25. An analysis of MCI's presentation -- which attempts to prove costs at \$0.65 per minute, a number that nobody in this industry can take seriously -- is set forth below. It should be kept in mind, however, that Petitioners are operating at a disadvantage because the opposing parties have all of the data necessary for a more precise cost calculation. If the Commission requests cost analyses from the inmate service providers and allows other parties to go behind the service providers' data, it would be possible to derive the real costs of prison calling and to construct a more accurate estimate of the costs that would be incurred in shifting to the approach proposed in the Wright Petition and my previous affidavit.

26. There is ample evidence, both in the opposing comments and elsewhere, that my cost estimates are fairly accurate. First, the Federal Bureau of Prisons ("FBOP") offers debit

³² See, e.g., T-NETIX Comments at 24, 27-33; CCA Comments at 32; Bohacek and Kickler Decl. at ¶¶ 25-35 (attached to CCA Comments); Evercom Comments at 4-7; Rae Decl. at ¶¶ 8-24, 34-39 (attached to Evercom Comments); MCI Comments at 26-30; RBOC Payphone Coalition Comments at 11-12; APCTO Comments at 15-16.

calling today at \$0.17 per minute.³³ Some of the opposing comments attempt to distinguish the FBOP experience by pointing out that the FBOP is able to use the federal telephone system with its extremely favorable rates.³⁴ As discussed in my previous affidavit, however, the long distance portion of inmate calling service accounts for a minor portion of the total cost. The low FBOP rate must therefore result largely from prison telephone system costs that are much lower than the costs reflected in the MCI estimates or the rates charged by most inmate service providers today. That the FBOP rate of \$0.17 per minute is a conservative estimate of the costs of serving private prisons is underscored by the fact that carriers like Evercom serve many times the number of facilities in the FBOP system, allowing them to realize enormous economies of scale.

27. Further support is provided by a recent decision on prison rates adopted by the Maryland Department of Budget and Management,³⁵ reducing interstate inmate debit rates in Maryland Department of Public Safety and Correctional Services facilities to \$0.30 per minute and awarding the inmate service contract to T-NETIX. This rate includes a whopping 60 percent commission rate.³⁶ After backing out the 60 percent commission, the revenue to T-NETIX is \$0.12 per minute for debit calling. T-NETIX would not have accepted this contract if that rate did not cover costs and a reasonable profit, leaving the total cost of inmate debit calling at less than \$0.12 per minute. Similarly, the interstate debit inmate calling rate at Colorado Department of Corrections (“CDOC”) facilities is \$0.19 per minute, with a \$1.25 per call surcharge, for a

³³ U.S. Department of Justice, Federal Bureau of Prison, Memorandum For All Institution Controllers, All Trust Fund Supervisors, from Michael A. Atwood, Chief, Trust Fund Branch, Trust Fund Message Number: 18-02 (Feb. 8, 2002) at 2, attached hereto as Exhibit A.

³⁴ See, e.g., Schott Aff. at ¶ 57 (attached to T-NETIX Comments); Bohacek and Kickler Decl. at ¶¶ 22-23 (attached to CCA Comments).

³⁵ Maryland Department of Budget and Management Action Agenda, Information Technology Contract, Item 3-IT (Dec. 17, 2003) (“Action Agenda”), attached hereto as Exhibit B.

³⁶ *Id.* at 24B, 25B.

total per minute cost of \$0.32 for a ten-minute call.³⁷ The commission rate paid by MCI to the CDOC is 27 percent,³⁸ leaving MCI with revenue of just over \$0.23 per minute for a ten-minute call, and slightly under \$0.185 per minute for a 20-minute call. Finally, the New York DCS indicated in an attachment to its comments that MCI provides inmate collect calling to the New York DCS for a \$3.00 connect fee per call and a per-minute rate of \$0.16. Thus, for an 18-plus minute call, which is the average for New York DCS inmate calls, the overall rate is slightly under \$0.32 per minute.³⁹ Because MCI pays a 57.5 percent commission out of that revenue, the net rate to MCI is about \$0.135 per minute.⁴⁰

28. These real-world rates differ significantly from the cost estimates and conclusions presented in the opposing comments in this case. MCI endeavored to prove that costs are as high as rates.⁴¹ The MCI filing showed costs for prison calling as follows:

	<u>Cost</u>	<u>Per Minute</u>
Minutes		6,797,500
Depreciation, Tax, Profits	\$ 160,186	\$ 0.024
Maintenance	\$ 52,140	\$ 0.008
Billing	\$ 110,459	\$ 0.016
Uncollectibles	\$ 773,215	\$ 0.114
Unbillables	\$ 110,459	\$ 0.016

³⁷ See Colorado Department of Corrections Administrative Regulation No. 850-12, Telephone Regulations for Offenders (Feb. 15, 2004), Att. C, Colorado Inmate Phone System, Debit Inmate Phone Rates, attached hereto as Exhibit C.

³⁸ See *Petition of MCI WorldCom Communications, Inc. for a Declaratory Order*, 2003 Colo. PUC LEXIS 387, at *1, 7 (Colo. PUC Apr. 9, 2003).

³⁹ New York DCS Comments, Exh. A, at 5. An 18 minute-plus call is rounded up to the next whole minute in applying these rates. *Id.*

⁴⁰ See *id.* at 4.

⁴¹ See MCI Comments at 26-30.

GSA	\$ 406,692	\$ 0.060
LD termination	\$ 509,812	\$ 0.075
Annual Storage	\$ 69,000	\$ 0.010
T1s	\$ 14,400	\$ 0.002
Commission	<u>\$2,209,187</u>	<u>\$ 0.325</u>
Total Expenses	\$4,415,552	\$ 0.650

These are MCI's estimates of costs for generic prison calling, not for debit calling specifically. A few of these cost factors do not apply to debit calling. There should be no cost of uncollectibles with debit calling. Debit calls would be allowed only if there were already sufficient funds in the pre-paid account. This is also true for unbillables, if the debit system is run properly.

Commissions should also be eliminated, since they are not a legitimate direct cost of providing calling but are amounts that must be paid to the prisons out of profits. Removing the costs that do not apply to debit calling leaves MCI with an adjusted estimate of the cost for debit calling as follows:

	<u>Cost</u>	<u>Per Minute</u>
Minutes		6,797,500
Depreciation, Tax, Profits	\$ 160,186	\$ 0.024
Maintenance	\$ 52,140	\$ 0.008
Billing	\$ 110,459	\$ 0.016
GSA	\$ 406,692	\$ 0.060
LD termination	\$ 509,812	\$ 0.075
Annual Storage	\$ 69,000	\$ 0.010
T1s	<u>\$ 14,400</u>	<u>\$ 0.002</u>
Total Expenses	\$1,322,690	\$ 0.195

29. A few of MCI's remaining costs must also be challenged. The most glaring overstatement of costs is the cost of \$0.075 per minute for terminating a long distance call. MCI is one of the largest IXCs in the country, and it owns and operates its own long distance network. Subsequent to filing my original affidavit, my company has become a long distance agent, and I

now sell wholesale long distance minutes to some of my clients. One of the products in the portfolio I am reselling is MCI long distance, and I can buy the same type of MCI minutes as are being used in this example (delivered to MCI over a T1 line) for around \$0.02 per minute as a wholesaler. I assume that MCI is making a profit at that wholesale rate, and I therefore estimate its actual cost to be closer to \$0.01 per minute. In the recalculation of MCI's estimate shown below, I was conservative and allowed the \$0.02 cost. MCI cannot really expect to be taken seriously in claiming long distance termination costs of \$0.075 per minute in today's environment. That figure apparently was driven by the need to justify the rate of \$0.65 per minute.

30. The cost of billing for debit calls also would be far less than cited by MCI. With collect calls, MCI has to print and mail actual bills to customers, and its estimate of billing cost is reasonable in a collect system. With a debit system, the transaction would be done by a settlement process between the transport carrier and the underlying prison provider or other entity handling the debit accounts. Since these calls would not be handed off to MCI until it was verified that there were sufficient funds in the debit account, there should not be any substantial billing costs. The only cost arises from electronically settling the bill between MCI and the entity handling the debit account, which could not be generously estimated to be more than 20 percent of what MCI is claiming.

31. MCI's claimed overhead (GSA) costs of \$400,000 annually to oversee the calling from a prison with less than 100 phones and with only 7 million annual minutes is extremely high. Compare this to MCI's cited maintenance costs (the direct technical employees) of only \$50,000 per year. MCI's GSA estimate is not remotely reasonable and apparently is inflated in order to back into a high calling cost of \$0.65 per minute. The GSA estimate of \$130,000 per year in my previous affidavit is far more reasonable (and is still generously high, based on my experience). It certainly is not reasonable for GSA to be greater than direct costs, as reflected in MCI's estimates.

32. Finally, I am not going to reduce it, but MCI has claimed a cost that was not mentioned by the other prison providers. MCI states that there is a cost of \$69,000 per year to provide annual storage of records. Since long distance call records and billing records are generally kept as database records, it seems doubtful that MCI spends this much to keep those records. There are also storage costs for keeping the recordings of all of the calls made by prisoners. As stated in my previous affidavit, this is generally a hardware cost and not an expense, and MCI's estimate seems very high for just one prison. For purposes of this analysis, however, I will assume that expense.

33. The adjustments to MCI's numbers discussed above yield a cost of debit calling quite similar to the estimate in my original affidavit (and very different from MCI's inflated \$0.65 per minute):

	<u>Cost</u>	<u>Per Minute</u>
Minutes		6,797,500
Depreciation, Tax, Profits	\$ 160,186	\$ 0.024
Maintenance	\$ 52,140	\$ 0.008
Billing	\$ 22,092	\$ 0.003
GSA	\$ 130,000	\$ 0.019
LD termination	\$ 135,950	\$ 0.020
Annual Storage	\$ 69,000	\$ 0.010
T1s	<u>\$ 14,400</u>	<u>\$ 0.002</u>
Total Expenses	\$ 583,768	\$ 0.086

34. It should be kept in mind that the purpose of the costing exercise in my previous affidavit was to show that the actual cost of inmate calling is low enough to support reasonably priced debit calling and would result in much lower rates under open competition. MCI's claimed costs are so unrealistically high that they would justify a Commission investigation, even in the absence of the pending rulemaking. Without more data, it is impossible to identify the exact cost of prison calling. A review of MCI's and other parties' opposing comments, however,

confirm that the cost of inmate debit calling is not anywhere near the \$0.65 per minute claimed by MCI, but is much closer to the \$0.07 to \$0.09 per minute claimed in my previous affidavit.⁴²

35. Opposing parties also commented on specific components of the cost estimates in my previous affidavit. The more significant of those issues are addressed below.

36. Switch Costs. MCI did not object to my estimate for switch costs (which may indicate that it was too high). Peter Bohacek and Charles Kickler, on behalf of CCA, assert that the real cost of hardware is greater than my estimate, although they give no specific estimate of hardware costs.⁴³ Evercom did not take exception to my hardware cost estimates. Alan Schott of T-NETIX says that prison switches cost between \$400 and \$1,000 per line, which would produce a *lower* switch cost than I used in my calculation.⁴⁴ I used a switch cost of \$350,000, and with 100 phones; this generates a per line cost of \$3,500. Thus, Mr. Schott's cost range would generate a much smaller switch investment than my estimate.

37. T-NETIX also states that it does not believe that soft switches will be used for prison calling "for years."⁴⁵ This is a surprising statement. It was made in reference to my statement that hardware costs would continue to fall, as switching centralization due to soft switches and VoIP overtakes the prison world. It is hard to believe that the underlying providers will not pursue the ability to achieve massive cost efficiencies and savings due to network centralization.

⁴² See Dawson Aff. at ¶¶ 70-72 (total cost of underlying prison system, including profit and taxes, is \$0.044 to \$0.059 per minute, and additional long distance cost is approximately \$0.027 per minute, for a total of \$0.07 to \$0.087 per minute).

⁴³ Bohacek and Kickler Decl. at ¶ 28 (attached to CCA Comments).

⁴⁴ Schott Aff. at ¶ 42 (attached to T-NETIX Comments).

⁴⁵ T-NETIX Comments at 30.

38. Cost and Quantity of Telephones. MCI uses a lower estimate for the cost of telephones than I did, but it otherwise agrees with my estimate.⁴⁶ Evercom and T-NETIX state that the typical ratio of inmates to payphones is significantly lower than the estimated ratio of 25 to 1 used to estimate the cost of payphone equipment in my previous affidavit. T-NETIX's estimate of 15 to 1 is made up of a 10:1 ratio for county facilities and 20:1 for state prisons.⁴⁷ It should be noted that most privately administered prisons are more similar to state prisons than to county and local facilities, which tend to be smaller and have a higher turnover than state prisons. Thus, the estimate of 25 to 1 is not greatly different from the more relevant of T-NETIX's two estimates -- the 20 to 1 ratio for state prisons. The 25:1 estimate was taken from the bid requirements established by the FBOP.⁴⁸ In any case, the phone set costs are not a major cost component in a prison system. Even using the lowest ratio suggested, the cost per minute for prison calling would barely change.

39. Overheads. MCI's inflated overhead estimate is discussed above. Evercom claims that I used an incorrect ratio in developing overheads, but the ratio it suggests produces roughly the same amount of overhead expenses as I used.⁴⁹

40. Maintenance Expense. MCI accepts my estimate of maintenance. Evercom states that maintenance is twice as high as I have shown.⁵⁰ The figure I used, however, was derived from the ratio of maintenance to equipment investment based upon two consecutive years of

⁴⁶ See MCI Comments at 29.

⁴⁷ Schott Aff. at ¶ 55 (attached to T-NETIX Comments).

⁴⁸ See Dawson Aff. at ¶ 57.

⁴⁹ Robert Rae of Evercom asserts that maintenance costs are about twice as high as my estimate, relative to installation costs, but that SG&A expenses are only about 1.8 times maintenance, not 2.6 times maintenance, as I had allowed in my previous affidavit, resulting in SG&A fractionally higher than my estimate. See Rae Decl. at ¶¶ 36-37 (attached to Evercom Comments).

⁵⁰ See *id.*

Evercom's own 10-K filings.⁵¹ Such a ratio is a standard way of predicting maintenance expense in the industry. Evercom has failed to explain why the ratio reflected in its 10-K is not reliable.

41. T1 Transport Costs. MCI and Evercom accepted my estimate of T1 costs. T-NETIX claims that T1 costs are about 50 percent higher than my estimate.⁵² In any case, T1 transport is a minor cost of providing prison calling and has an insignificant impact on overall costs. In my previous affidavit, I pointed out that T1 costs vary widely by market, and any one number cannot represent the whole market.

42. Number of Inmate Minutes. T-NETIX challenges the use of FBOP data, rather than California DOC data, to estimate average inmate long distance telephone usage.⁵³ T-NETIX, however, like all of the other opponents, carefully avoids providing its own average inmate long distance usage data from its vast experience. Its criticism of my estimate thus cannot be taken seriously. MCI, in its calculations, does not challenge my usage estimate, nor does Evercom.⁵⁴ It should also be noted, in this regard, that private prisons house a disproportionate share of low or minimum security inmates and inmates incarcerated far from their home states, which would tend to increase their opportunities and need for long distance calling, relative to the typical prisoner in facilities managed by state correctional authorities.⁵⁵ In that regard, private prison inmate calling patterns are likely to be more similar to FBOP inmate calling patterns than to state correctional inmate calling patterns, making the FBOP data more relevant. The FBOP and private systems have a higher percentage of prisoners housed out of state, making

⁵¹ See Dawson Aff. at ¶ 59.

⁵² Schott Aff. at ¶ 56 (attached to T-NETIX Comments).

⁵³ T-NETIX Comments at 29.

⁵⁴ See MCI Comments at 26-30; Evercom Comments, Rae Decl. at ¶¶ 34-39 (attached to Evercom Comments).

⁵⁵ See Ad Hoc Coalition Comments at 5-7.

almost all calls interstate toll calls. It should also be noted that the FBOP RFP from which the FBOP usage data was derived represents a very large number of prisons and prisoners, and their average calling figures represent a wide variety of prison sizes and locations.⁵⁶ Representatives of inmate families discussed the issue of housing private prison inmates out of state in their comments.⁵⁷

OTHER ISSUES

43. Collect Calling. Several parties, including MCI, have suggested that Petitioners are seeking the end of collect calling from private prisons.⁵⁸ This is not true. Prisoners need the option of both debit and collect calling, and the Wright Petition and my affidavit made that clear. If prisons install pre-paid debit platforms that allow families to arrange for calling on an affordable basis, one would expect a huge drop in collect calling, particularly if inmate collect calling stays at today's high rates.

44. Administration of Debit Accounts. Petitioners also do not advocate that the Commission mandate the way that debit accounts are administered. A few parties warned that prisons should not be required to accept the cost and burden of implementing a debit account system.⁵⁹ Petitioners do not disagree. It does not matter who maintains the debit accounts. Application of Petitioners' proposed approach to privately administered prisons would not impinge on state correctional staff. Private prison corporations, such as CCA, administer debit accounts now through the commissaries at many of their facilities. They also might choose to contract that function out to the inmate telephone system providers, depending on which approach proves most efficient. The Commission need not concern itself with the details of the

⁵⁶ See Dawson Aff. at ¶ 66.

⁵⁷ See, e.g., Ad Hoc Coalition Comments at 5-7.

⁵⁸ See, e.g., MCI Comments at 23-25.

⁵⁹ ODRC Comments at 3; T-NETIX Comments at 32; CCA Comments at 19-22; Bohacek and Kickler Decl. at ¶¶ 9-14, 21-22 (attached to CCA Comments).

inmate debit accounts or which of the private parties involved in the process -- private prison administrators or underlying system providers -- should handle the accounts, as long as debit card or debit account calling is an option.⁶⁰ Moreover, the supposed additional database and customer service costs for service providers of implementing debit card or account calling⁶¹ would be negligible per minute of usage.

45. Operational Issues. The oppositions are largely premised on the notion that the competitive system proposed in the Wright Petition and my previous affidavit would constitute a radical re-engineering, or “unbundling,” of private prison inmate telephone systems, which, in turn, would undermine security and increase costs.⁶² Bohacek and Kickler develop elaborate flow charts in an effort to depict the increased complexity that supposedly would result from implementation of a competitive system.⁶³ As discussed above, however, rather than a complex “TELRIC for prisons” unbundling or BPP proposal, Petitioners have proposed a much simpler equal access interconnection regime, allowing inmates to choose their long distance carrier, for privately managed prisons above a threshold size. As some of the oppositions concede, the suggested competitive system could build on the systems already in place. MCI notes that the underlying system would continue to be an exclusive arrangement with the system provider, albeit without commission payments and with the added feature of interconnecting competitive carriers.⁶⁴ The underlying carrier would continue to process all calls and handle all security

⁶⁰ Any division of functions, and the costs incurred thereby, between the prison administrator and underlying system provider can be accommodated in their contract terms so that there is no net effect on the underlying provider’s costs of providing service.

⁶¹ T-NETIX Comments at 33; CCA Comments at 20; Bohacek and Kickler Decl. at ¶¶ 24, 27 (attached to CCA Comments).

⁶² See T-NETIX Comments at 33-34; CapAnalysis at 17 (attached to T-NETIX Comments); CCA Comments at 29-31.

⁶³ Bohacek and Kickler Decl. at Exhibit 3 (attached to CCA Comments).

⁶⁴ MCI Comments at 8 n.7. MCI comments that “Petitioners would have the Commission limit exclusive contracts between ICS providers and DOCs to call validation, messaging, monitoring,

functions in the same manner as service providers like Evercom do today.⁶⁵ Opponents have not explained why the single underlying system provider would not be able to provide all of the security functions that exclusive service providers do today.

46. The opponents also emphasize the complexity of implementing interoperability between the underlying prison payphone system and the interconnected IXCs and the research and development and new equipment that would supposedly be required to bring about such interoperability,⁶⁶ but similar interconnections are already in place. As noted above, service providers like Evercom and T-NETIX already have to hand off long distance calls to IXCs, requiring those IXCs to track calls. Accordingly, security functions could be carried out and problems investigated as readily as under the current system.

47. Opponents also comment on the supposed complexities in adding to the interconnection between the underlying system provider and each interconnected carrier the electronic data transfer interface necessary to coordinate call validation and billing between them.⁶⁷ Call validation and billing might be handled in a variety of ways, however, and the service providers could agree among themselves how to do so. For example, it might be simpler and cheaper at the outset for an interconnected IXC to agree to have the underlying service

routing, recording, and reporting functions.” *Id.* It is not clear what MCI’s point is. The underlying system provider under Petitioners’ proposal would handle all necessary security and service functions that inmate service providers do now, except for the hand-off of long distance calls to one of the interconnected carriers.

⁶⁵ Thus, private prison administrators could continue to award contracts on an exclusive basis to providers of the underlying inmate telephone system in each prison. *See* T-NETIX Comments at 8.

⁶⁶ *See* T-NETIX Comments at 26-27, 31; Schott Aff. at ¶¶ 19-21 (attached to T-NETIX Comments); Evercom Comments at 4-7; Rae Decl. at ¶¶ 14-22 (attached to Evercom Comments); CCA Comments at 29-30; Bohacek and Kickler Decl. at ¶¶ 4-16, 36 (attached to CCA Comments).

⁶⁷ *See, e.g.*, RBOC Payphone Coalition Comments at 11-12.

provider handle validation and billing for it. That way, only one service provider is involved in these functions on interconnected calls handed off to the particular IXC, simplifying the interface between the underlying provider and the carrier. The service providers could decide to allocate these functions, and the costs attendant thereto, in various ways, depending on their relative capabilities and other factors.

48. In short, despite opponents' efforts to depict the inmate service market as unique, the most difficult technical problems described by opponents have long since been solved and implemented throughout the industry, requiring only the replication of the same software applications for additional interconnections. Moreover, because the typical underlying provider and the typical interconnected carrier will be serving multiple facilities, and because the interconnection of different networks is essentially a matter of software applications, the cost of implementing the interconnection between an underlying service provider and an interconnected carrier -- even the "several million dollars" hypothesized by Evercom⁶⁸ -- appropriately depreciated over a period of years, is extremely inexpensive per minute of use.⁶⁹

49. To the extent that a given prison does not have debit calling today, there will a cost associated with adding it, but that cost does not necessarily have to be borne by the prison administrator, unless it wants to retain direct control of the debit accounts. There must be a settlement process so that the competitive carriers can get paid from the accounts controlled by the underlying provider. My company works all of the time to help carriers implement new processes, and I appreciate the amount of effort required to implement this type of change. The opponents have not demonstrated, however, any obstacle that, in my experience, would prevent

⁶⁸ Rae Decl. at ¶ 16 (attached to Evercom Comments).

⁶⁹ Evercom suggests that a multiple interconnection provisioning system for an underlying system provider would cost \$1 to \$2 million. Rae Decl. at ¶ 15 (attached to Evercom Comments). Divided among multiple facilities, however, that cost would be relatively insignificant.

service providers from implementing the changes necessary to bring about a competitive system with debit calling at the costs set forth in my previous affidavit.

50. There may be multiple ways of implementing the competitive proposal outlined in the Wright Petition and my previous affidavit. For instance, my affidavit suggested a simplified approach for illustrative purposes in which each competitive carrier would have to install trunks into each prison. In the real marketplace, the underlying carrier and the long distance providers might find other ways to implement the same concept. For example, a typical inmate service provider, “A,” could negotiate contracts to provide the underlying systems at many prisons operated by CCA or another private prison administrator. Another carrier, “B,” could interconnect with A at a mutually agreed point of presence (“POP”) in order to provide the long distance segment of long distance calls from the prisons served by A. Those providers would experience many of the same cost savings that opponents describe for the exclusive inmate service providers under the current system. Each provider would handle the administration of regulatory issues for all of its systems, and many of the costs for all of its systems would be shared. Thus, instead of requiring service provider B to interconnect with every prison served by A, it could interconnect with provider A at a single POP subject to contracted security requirements imposed by the prison operator and provider A. This approach would avoid the problem of duplicative trunking, provisioning and interconnection costs raised by Evercom,⁷⁰ and, for most privately administered prisons over the threshold size, the interconnection process would not be a burden for the facilities administrators.

51. Some of the opponents argue that the system proposed in the Wright Petition and my previous affidavit would not bring about any significant competitive benefits. MCI argues that, because the underlying system remains a monopoly, there would be “no cost reduction due to competitive choice.”⁷¹ The competitive cost reduction would come about through choice in

⁷⁰ Rae Decl. at ¶¶ 9-12, 14-15 (attached to Evercom Comments).

⁷¹ MCI Comments at 8 n.7.

long distance carriers, just as it did for the general public following the break-up of the Bell System. Opponents argue that no service providers would want to participate in the inmate service market, either as an underlying system provider or as an interconnecting competitive carrier, under the conditions proposed in the Wright Petition and my affidavit.⁷² If the Commission establishes a benchmark rate to be charged by the underlying system provider to the interconnecting carriers that covers all costs and a reasonable profit, service providers will compete to provide the underlying system. Parties may argue what those costs are, although the opponents offered surprisingly little evidence on that issue, but if the benchmark rate is set properly, there will be no “free rider” problem,⁷³ and firms will compete to provide the underlying systems. Opponents repeatedly warn that the underlying system providers would be required to sell their functionalities at “below-cost rates,”⁷⁴ but that can only happen if potential system providers fail to present credible cost data to this Commission. Service providers will also want to serve as interconnecting carriers because their rates would not be regulated. Thus, in a proceeding looking toward the development of a benchmark rate, service providers will be motivated to safeguard their potential interests, both as underlying system providers and as interconnected carriers, thereby ensuring a complete and accurate cost record on which to base a benchmark rate.

52. Audit Issues. Several parties stated that Petitioners’ proposal would make it hard for prison officials to audit the process and to obtain call records for specific calls.⁷⁵ As explained above, that assertion rests on opponents’ mischaracterization of the proposal. The

⁷² T-NETIX Comments at 33-34.

⁷³ *Id.* at 34; CapAnalysis at 16-17 (attached to T-NETIX Comments).


⁷⁴ T-NETIX Comments at 36.

⁷⁵ *See, e.g.*, T-NETIX Comments at 22-23; Schott Aff. at ¶ 18 (attached to T-NETIX Comments); CCA Comments at 30; Bohacek and Kickler Decl. at ¶ 19 (attached to CCA Comments); MCI Comments at 22-23; ODRC Comments at 2-3.

underlying provider would be responsible for this function, just as exclusive providers are today.

The underlying provider is the switch owner. It would be responsible for capturing and recording the call details for each call and, if required, would also make a permanent recording of the content of the call. The underlying provider would have all of the same records that service providers have today, and audit requirements would be unchanged.

I declare under penalty of perjury that the foregoing is true and correct.



DOUGLAS A. DAWSON

Executed on this 21 day of April, 2004

EXHIBIT A

U.S. Department of Justice
Federal Bureau of Prisons

Central Office

Washington, DC

February 8, 2002

MEMORANDUM FOR ALL INSTITUTION CONTROLLERS
ALL TRUST FUND SUPERVISORS

FROM: Michael A. Atwood, Chief
Trust Fund Branch

SUBJECT: Commissary and Telephone Rate Increases
Trust Fund Message Number: 18-02

Effective March 1, 2002, a number of changes will take effect in the Trust Fund Program which will directly impact the inmate population at your institution. The information provided below is meant to assist you and your staff in preparing for these changes.

Commissary: An approximate increase of 5% in the markup of all general items sold in the Commissary, excluding stamps and religious items, will go into effect. Products containing tobacco (cigarettes, cigars, and smokeless tobacco) will be increased by approximately 15%. The markup for Special Purpose Orders will remain unchanged.

In addition to changing the markup for items, the method for determining the selling price of an item will change. Although this will not further affect the price of the items, it will bring the Bureau in line with the industry standard's formula for calculating the mark-up on cost for items sold. Currently, the cost price of an item is divided by 0.8 to determine the selling price. Effective at the time of the increased markup, the cost price will be multiplied by 1.3 (1.4 for tobacco products). The requirement to round up to the next highest nickel, if necessary, will continue.

Validation: In order to offset the potential reduction in inmate purchasing power due to the markup increase, the inmate monthly Spending Limit will be increased from \$275 per month to \$290 per

month. This increase will become effective on the inmate's regularly scheduled validation date during the month of March.

Step-by-step instructions for changes that are to be made within the FPPOS System are attached. Instructions for TRUFACS will be provided under a separate memorandum to the applicable institutions. Please remember that no sales may be conducted during this time. The expected time frame to allow for changes to be completed is approximately 3.5 to 4 hours.

ITS-II: New telephone rates will also take effect the morning of March 1, 2002. The voice prompts that provide the collect rates will be changed at that time. Staff will not have to take any action to effect the rate increase or the voice prompt changes.

The new rates are as follows:

	<u>Current Rates</u>	<u>New Rates</u>
Local	\$0.04	\$0.05
Long Distance	\$0.15	\$0.17
Canada	\$0.25	\$0.30
Mexico	\$0.47	\$0.50
International	\$0.85	\$0.99
Collect (10 minute call)	\$5.45	\$6.95

If you have any questions concerning this information or the instructions that are attached, please call me or Teresa La Forgia, Deputy Chief, Trust Fund Branch (202) 307-3144.

Attachment

CC: Robert J. Newport, Senior Deputy Assistant Director
Administration Division
All Regional Comptrollers

EXHIBIT B

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

(revised)

INFORMATION TECHNOLOGY CONTRACT

ITEM: 3-IT Agency Contact: Ellis Kitchen (410) 260-2994
ekitchen@dbm.state.md.us

DEPARTMENT: Budget and Management (DBM)

PROGRAM: Office of Information Technology (OIT)
Telecommunications Division

DBM's OIT oversees the management and integration of Information Technology (IT) throughout the Executive branch of State government and has direct responsibility for the State's planning, policy formulation and implementation and administration of all Statewide IT contracts. The OIT Telecommunications Division is responsible for coordinating and managing telecommunications based activities Statewide, including payphone equipment and services located in State correctional facilities.

CONTRACT NO. & TITLE: 050R2800336;
DPSCS Local and Long Distance Payphone
Equipment and Services

ADPICS DOCUMENT ID NUMBERS: 050B4800011

DESCRIPTION: Revenue generating contract to provide local and long distance calling services at State correctional facilities operated by the Department of Public Safety and Correctional Services (DPSCS). Contract also supplies and maintains the correctional facilities' public pay telephones which includes control and monitoring equipment. Under this new contract, the DPSCS Inmate Welfare Fund will continue to receive the same amount of revenue as compared to the current contract and inmates and their families will pay substantially lower prices for these services (see Requesting Agency Remarks below).

TERM: 12/17/2003 - 12/31/2006 (W2 one-year
renewal options; see Requesting
Agency Remarks below)

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

PROCUREMENT METHOD: Competitive Sealed Proposals

BIDS OR PROPOSALS: See Attachment

AWARD: T-NETIX, Inc.
Carrollton, TX
(Local office in Delmar, MD)

INCUMBENTS: AT&T (for long distance services)
(5/10/89 - 12/31/2003; \$43,792,381 revenue
paid to the State)

Verizon, Inc. (for local services/equipment)
(9/27/89 - 12/31/2003; \$12,637,995 revenue
paid to the State)

FUND SOURCE: N/A (Revenue Generating) **APPROP. CODE:** N/A

AMOUNTS : \$20,500,000 Est. (3 Years; Base Contract)
\$ 7,000,000 Est. (1 Year; 1st Renewal Opt.)
\$ 7,000,000 Est. (1 Year; 2nd Renewal Opt.)
\$34,500,000 Est. Grand Total of Revenue to
the State (5 Years)

PERFORMANCE BOND: None

REQUESTING AGENCY REMARKS: A notice of the availability of the Request
for Proposals (RFP) was advertised in the *Maryland Contract Weekly* and at the
eMarylandMarketplace.com website. Copies of the solicitation notice were e-mailed directly to
17 prospective vendors, 6 of which were Maryland firms and included 1 MBE. A copy was also
sent to the Governor's Office of Minority Affairs.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

A 10 % MBE goal was established for this contract. T-NETIX, Inc. ("T-NETIX"), the recommended contractor, has selected McEnroe Voice and Data Corporation ("McEnroe"), Hunt Valley, MD, to fulfill this goal. McEnroe will provide a voice recording system for the T-NETIX inmate calling platform and provide quality control and project management services. Since a vast majority of this contract is for network service to the telephones and with the lack of certified MBE firms in the business of providing the requested telephone equipment and services, it was decided that a 10% MBE goal was reasonable for this contract.

DBM received proposals from six vendors for this RFP. However, one of the six vendors was deemed not reasonably susceptible of being selected for award and was so notified. The remaining five vendors were deemed reasonably susceptible of being selected for award as shown in the Attachment.

Currently, DBM has contracts with Verizon, Inc. ("Verizon"), to provide DPSCS inmate pay station equipment and local services at a current commission rate of 20%; and with AT&T Corp. ("AT&T"), to provide long distance carrier services to the pay stations at a current commission rate of 42%.

Under the current contract with Verizon, the State's Inmate Welfare Fund receives approximately \$500,000 in revenue annually. Under the current contract with AT&T, the State's Inmate Welfare Fund receives approximately \$6,500,000 in revenue annually. The RFP for this new contract required only one vendor to provide both the pay station equipment and local and long distance services. This was done to maximize the State's buying power with the objective of obtaining better rates for both services.

There were four goals set for this contract:

1. Lower the calling rates for the consumer;
2. Maintain the current annual revenue stream for the State's Inmate Welfare Fund,
3. Offer consumers, at no cost to the State or need for State staff resources, a debit/prepaid program; and
4. Provide, at no cost to the State, state-of-the-art monitoring, controlling and recording equipment.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

Although providing lower calling rates for the consumer and maintaining the current annual revenue stream for the State's Inmate Welfare Fund were conflicting goals and seemed difficult to achieve, all four goals will be met through this award, as follows:

1) Lower Calling Rates for the Consumer

Inmates and their families will pay substantially lower prices for these services compared to the current contract.

Under the current contract, calling rates for local calls are 85 cents per call regardless of the length of the call. Under the new contract, rates for local collect calls will remain at 85 cents per call regardless of the length of the call. However, when consumers pay for local calls using the debit/prepaid program (see below description for goal #3), the cost is 50 cents per call regardless of the length of the call. This is a savings of 35 cents or 41% per call to the consumer over the current contract.

Under the current contract, calling rates for intra-State calls (long distance calls within the State) are \$3.45 for the first minute and 45 cents a minute thereafter. Under the new contract, calling rates for intra-State calls will be reduced to \$2.85 for the first minute (a savings of 60 cents or 17% over the current contract) and 30 cents per minute thereafter (a savings of 15 cents or 33% over the current contract). In addition, when consumers pay for long distance calls within the State using the debit/prepaid program, intra-State calls will be reduced to 30 cents for the first minute (a savings of \$3.15 or 91% over the current contract) and 30 cents per minute thereafter (a savings of 15 cents or 33% over the current contract).

Under the current contract, calling rates for inter-State calls (long distance calls outside the State) are \$4.84 for the first minute and 89 cents a minute thereafter. Under the new contract, calling rates for inter-State calls will be reduced to \$3.00 for the first minute (a savings of \$1.84 or 38% over the current contract) and 30 cents per minute thereafter (a savings of 59 cents or 66% over the current contract). In addition, when consumers pay for inter-State calls using the debit/prepaid program, the cost will be reduced to 30 cents for the first minute (a savings of \$4.54 or 94% over the current contract) and 30 cents per minute thereafter (a savings of 59 cents or 66% over the current contract).

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

Two examples for a 10-minute long distance call are:

1. *For an Intra-State (Within Maryland) Call*

The consumer's cost for making non-debit/prepaid calls – Under the current contract, the cost is \$7.50, while under the new contract the cost will be \$5.55 (a savings of \$1.95 or 25%).

The consumer's cost for making calls using the debit/prepaid – Under the current contract, the cost is \$7.50. Under the new contract, when consumers use the debit/prepaid program the cost for this call would be \$3.00 (a savings of \$4.50 or 60%).

2. *For an Inter-State (Outside of Maryland) Call*

The consumer's cost for making non-debit/prepaid calls – Under the current contract, the cost is \$12.85, while under the new contract the cost will be \$5.70 (a savings of \$7.15 or 55%).

The consumer's cost for making calls using the debit/prepaid – Under the current contract, the cost is \$12.85. Under the new contract, when consumers use the debit/prepaid program, the cost for this call would be \$3.00 (a savings of \$9.85 or 76%).

2) Maintain Current Annual Revenue for the Inmate Welfare Fund

For collect calls the commission rate T-NETIX has offered to pay the State is 48% for local calls (a 140% increase in commission paid to the State over the current contract) and 57.5% for long distance calls (a 15.5% increase in commission paid to the State over the current contract).

For debit/prepaid calls the commission rate T-NETIX has offered to pay the State is 60% for both local and long distance calls (a 40% increase in commission paid to the State over the current contract for local calls and an 18% increase in commission paid to the State over the current contract for long distance calls).

Although under the new contract the calling rates have been significantly reduced, because the commission rates have increased, the revenue stream to DPSCS for the Inmate Welfare Fund will remain consistent with the estimated \$7 million received annually under the current contract.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

3) *Offer Consumers a Debit/Prepaid Program*

This new contract also provides for a debit/pre-paid program which will be offered to inmates and family members or other approved individuals. This program provides for calls to be paid-for in advance by inmates through the correctional facility commissary system. Also, a family member or other approved party receiving calls from an inmate can pay for calls in advance through T-NETIX. Family members or an other approved party can also request that an inmate's use of a pre-paid calling account be restricted to calls that can be made only to a designated individual. This will provide the ability to keep track of spending for both the inmate, a family member or other approved party.

Through the debit/prepaid program, when placing a call, the caller will be notified, in advance, of the balance on the account. The debit/pre-paid program is totally automated through the pay station equipment system. This debit/pre-paid program will not require staff time, maintenance or cost from DPSCS. In addition, reporting features offer the ability for DPSCS to provide reports to anyone inquiring about balances on prepaid call accounts.

4) *Provide State-of-the-art Monitoring, Controlling Recording Equipment*

Currently there are approximately 2,000 pay stations installed in 31 DPSCS correctional facilities. The number of pay stations installed in each facility ranges from 24 to 285. These pay stations are connected to specialized call monitoring and control equipment. The monitoring and control equipment is designed to protect the community from fraudulent, threatening or harassing calls. In addition, correctional facilities are equipped with systems which regulate the ability of inmates to make calls based on the requirements of each facility. This equipment is outdated and will be replaced with new state-of-the art technology under the new contract.

This new technology will be fully integrated with the inmate calling system to facilitate the seamless management of recorded telephone conversations while providing security levels that prevent unauthorized access to the recordings. Through a centralized facility, DPSCS staff can access any remote site for investigation purposes or to operate the system, change system configuration, troubleshoot and retrieve data. However, since all facilities are integrated through one network, with the appropriate security, each facility can be accessed by DPSCS staff from any remote location.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

Listed below are some of the functions available with the new technology:

- Assign and manage inmate ID codes;
- Assign and manage specific calling options and privileges;
- Create and manage an allowed *call list* for each inmate;
- Block, unblock or edit blocked numbers in real-time;
- Change passwords and other security features;
- Manage monitoring and recording activities;
- Track all administrative user activity;
- View current phone status via a real-time call activity display;
- Perform online queries; and
- Obtain comprehensive activity reports.

As provided for in the current contract (and in this new contract), the State does not, and will not pay for the telephones or the hardware, software, or maintenance services associated with the inmate pay station monitoring systems.

There is an overlap of 15 days between this contract and the current contract. This is necessary in order to transition services to the new contract.

A bid protest has been received on this contract dated November 13, 2003 from AT&T. The Department has denied the bid protest in a letter dated November 24, 2003. AT&T has not filed an appeal of the protest denial with the Maryland State Board of Contracts Appeals.

The Office of the State Comptroller has verified, under Control Number 03-2218-0001, that the recommended contractor has no known deficiencies in the payment of its Maryland tax obligations. Verification has also been obtained from the Comptroller's Office, or the Department of Assessments and Taxation, as applicable, that the contractor is appropriately registered to conduct business within the State to the extent required by the laws of Maryland.

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

ITEM: 3-IT (Cont)

The contractor is a resident business under the guidelines of BPW Advisory P-003-95 Revised.

DBM REMARKS: Furnishing of long-term services are required to meet State needs; estimated requirements cover the period of the contract and are reasonably firm and continuing; and a multi-year contract will serve the best interests of the State by promoting economies in State procurement.

By approving this contract, the Board grants DBM the authority to approve the unilateral exercise of the renewal option(s) at the scheduled times as provided for in the contract, and directs that the exercise of each option renewal be reported on a DBM PAAR.

Approval recommended.

Board of Public Works Action - The above referenced Item was:

APPROVED

DISAPPROVED


DEFERRED

WITHDRAWN

WITH DISCUSSION

WITHOUT DISCUSSION

EXHIBIT C

ADMINISTRATIVE REGULATION  COLORADO DEPARTMENT OF CORRECTIONS	REGULATION NUMBER 850-12	PAGE NUMBER 1 OF 10
	CHAPTER: Offender Personnel	
	SUBJECT: Telephone Regulations for Offenders	
RELATED STANDARDS: ACA Standards 2-CO-5D-01, 4-4271, 4-4272, 4-4497	EFFECTIVE DATE: February 15, 2004	
	SUPERSESION: 10/15/03	
	Joe Ortiz Executive Director	
OPR: OBO		

I. **POLICY**

It is the policy of the Department of Corrections (DOC) to permit offenders reasonable access to telephones to maintain essential community, family, and legal contact. [4-4497]

II. **PURPOSE**

The purpose of this administration regulation is to set forth the guidelines for governing offender telephone contact with family members and community resources. [2-CO-5D-01]

III. **DEFINITIONS**

- A. **Branding**: System notification to the called party that a call is originating from a state correctional facility.
- B. **CIPS**: Colorado Inmate Phone System - An acronym given to the DOC offender phone program.
- C. **CIPS Input Operator**: A person at a DOC facility/office responsible for entering information into CIPS.
- D. **Collect Call**: A call in which the called party pays all of the charges for the call.
- E. **Debit Call**: A call in which the offender pays all the charges for the call.
- F. **Inmate Telephone Coordinator**: The person identified to coordinate and manage CIPS for all facilities and offices.
- G. **INTER-LATA**: A call from one area code to another area code within the state of Colorado.

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- H. **INTRA-LATA**: A call from one area code to a number in the same area code that is not defined as a local call.
- I. **Local Call**: The geographic location of the caller (offender) and the called party determines whether a call will be classified as local. Local calls are from one area code to a number in the same area code that is defined as local (in distance) by the local exchange carrier.
- J. **Personal Identification Number (PIN)**: A ten-digit number assigned to an offender's CIPS account that allows the offender access to the telephone system. The first six digits are the offender's DOC number and the last four digits are randomly generated code numbers. If an offender's DOC number is less than six digits the PIN is preceded by a zero(es).
- K. **Positive Acceptance**: Required action by the called party in order to complete call connection.
- L. **Speed-Dial Number**: A list of numbers stored in CIPS that can be accessed to place local, long distance, or international telephone calls. This system allows the telephone user to dial a two-digit number which connects the caller with the approved telephone number.
- M. **Telecommunication Devices for the Deaf (TDD)**: Portable units that communicate telephonically through the utilization of keyboards and readout screens which make telephone conversations accessible to hearing impaired offenders.

IV. **PROCEDURES**

A. **Guidelines**

1. Maintaining contact with the community via telephone is a PRIVILEGE afforded to those offenders who demonstrate a willingness to conduct themselves in a responsible and mature manner.
2. Disciplinary sanctions may be imposed for the abuse or misuse of telephone privileges.
3. All telephone calls by offenders, with the exception of properly placed legal calls, are subject to recording and/or monitoring by staff. Notice of the potential for monitoring shall be posted on or near offender telephones. (See section IV.L. "Legal Calls.")

B. **Call Routing**

1. The only calls allowed will be to the numbers provided on the approved "Inmate Phone List" (Attachment "A").
2. At the time a call is placed, the offender may be given a prompt to dial "1" for debit or "2" for collect. The offender makes the choice whether the call is routed as a debit call or a collect call.

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3. All calls will be branded as originating from a state correctional facility. Debit calls will be announced as being prepaid. Collect calls will be announced as being collect. All calls, debit and collect, except attorney numbers entered with 90 series speed dial numbers, will require positive acceptance by the called party.

C. Phone Lists

1. All offenders who participate in CIPS must submit to their case manager a completed CIPS "Inmate Phone List" (Attachment "A"). The CIPS "Inmate Phone List" must be filled out in its entirety and include a list of names, relationship, the physical address where the phone number terminates and a complete telephone number. The terminating physical address must correspond to the area code and prefix of the telephone number.
2. Offenders shall indicate on the "Inmate Phone List" form if the system recordings should be in Spanish. If not indicated otherwise, all recordings will be in English.
3. Phone numbers utilizing remote call forwarding are not allowed as the terminating number because they cannot be identified or verified. The maximum number of approved telephone numbers will be 15 (fifteen). Case managers shall ensure that the offender's victim(s) or other numbers deemed inappropriate are not included on the offender's authorized phone list. Inappropriate contacts may include, but are not limited to, individuals who are likely to have a detrimental effect on the offender or present a security threat. Following approval from the case manager, each individual form will be directed to the CIPS input operator for inclusion in CIPS.
4. The CIPS "Inmate Phone List" form will be used to make any changes to the offender's telephone account. A copy of the form will be retained in the offender's working file and one copy will be returned to the offender when all entries have been made. The original or scanned original will be retained in the CIPS coordinator/administration office.
5. Changes, additions, or deletions to an offender's phone list will be allowed once every 30 days. This date will be computed as 30 days from the date the offender signed the last CIPS "Inmate Phone List" form. The case manager shall ensure the submission of requests complies with this regulation and are forwarded to CIPS in a timely manner.
6. Offenders will be allowed to make calls to any number on their approved list. In the event that phone privileges are abused, phone calls may be limited to a specific number; phone privileges may be denied or suspended; or appropriate sanctions, including restitution, may be imposed, as outlined in administrative regulation 150-01, *Code of Penal Discipline*.
7. The CIPS input operator will have all approved changes to the offender's phone list programmed within three working days upon receipt. Exceptions to this time frame may be made by the administrative head, or designee.
8. No former or current staff, private prison staff, volunteer or persons who provide a service to the DOC may have their phone number on the list of an offender. Exceptions to this will only be granted with the approval of the executive director, or designee.

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9. Calls to "toll free" numbers such as "800," "855," "866," "877," "888" and "900" will not be allowed at any time.
10. International numbers will be identified by a speed dial number beginning with "7." This change will be made at the time of input by the CIPS operator and the change will be indicated on the phone list.

D. Personal Identification Number

1. The PIN is generated upon completion of the offender's initial phone list. This number is confidential and is not to be shared with other individuals.
2. When an offender attempts to place a call, he/she must enter the 10-digit PIN and immediately dial the two-digit speed-dial number that corresponds to the person with whom he/she wishes to speak.
3. The PIN will identify an offender and his/her location when the offender places a call. The PIN will also be used to determine if an offender is allowed to complete the call.
4. Should an offender's PIN be compromised or lost, it must be reported to the appropriate case manager and a new PIN may be assigned, per facility/office procedures.
5. Offenders who loan, barter, share, or give their PIN to another offender for any purpose may be charged under AR 150-01, *Code of Penal Discipline (COPD)*. Offenders found in possession of or using another offender's PIN may be charged under the COPD.

E. Rates and Charges

1. Actual calling rates may vary according to the time of day the call is placed, destination of the call, and how the call is routed (e.g., inter-lata, local, intra-lata).
2. Toll calls will be billed in even minute increments, in accordance with current FCC regulations and approved tariff rates (see Attachment "C"). If there are not enough funds in an offender's CIPS account to complete the maximum 20-minute call, a minimum call duration of three minutes has been established. Therefore, if an offender has enough funds to complete anything between three and twenty minutes, a debit call will occur.
3. The maximum length of any phone call will be 20 minutes. Facility procedures may alter maximum call durations, such as, administrative segregation units. The system will automatically disconnect calls at the end of this period.
4. Offenders will be charged for actual phone time used, in even minute increments, plus the appropriate surcharge for switch use. If the duration of the call is less than the maximum time, the cost is adjusted to cover only the amount of time (to the minute) that the call is active. Phone charges will be automatically assessed from the offender's CIPS account upon disconnection from the call.

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5. If an answering machine breaks the ringing cycle of the call, the call is considered complete and charges will stand. Once the answering machine clicks, the billing begins. Offenders will be charged regardless of whether they leave a message or not. To avoid these charges, offenders should hang up at least one ring prior to the ring on which the answering machine is set to pick up the call.
6. All international calls must be placed as debit calls.
7. Collect calls will be charged at the current rate for operator assisted calls.

F. Deposits to Offender Phone Account:

1. In order for an offender to make debit telephone calls, it will be necessary to purchase telephone time through the canteen process. These funds will serve as a deposit and will be deducted only after a phone call has been completed.
2. Offenders may not move money from their telephone account back to their offender bank account. The only time an offender may receive the balance on account for telephone services will be upon transfer from a correctional facility to a work-release facility, parole, court ordered release, discharge, death, or some other means whereby an offender is permanently assigned and has no access to CIPS.
3. Transfer of money between one offender's telephone account and another offender's telephone account is strictly prohibited.
4. It is the responsibility of the offender to ensure they have transferred enough monies to their telephone account to cover the debit calls. Family members, or associates, may assist with phone call funding by sending postal money orders to the offender through the mail. However, all monies received will be posted to the offender's bank account and only that offender may authorize monies transferred from his/her bank account through canteen purchase, to his/her telephone account. Deposits made by instruments other than U.S. postal money orders (e.g., personal checks, other money orders, etc.) will be held in accordance with established policy.

G. Purchasing Telephone Time

1. Offenders order telephone time by ordering commodity number 8000 on their weekly canteen order form and indicating how much money they want transferred to their telephone account. Phone time is sold in even \$1.00 increments and is exempt from facility dollar limit. Offenders are allowed to purchase as much phone time as the balance of their offender banking account allows. The canteen order form is then processed through normal canteen procedures.
2. Phone time will be posted to the individual phone account by the CIPS administration office in accordance with the canteen schedule.
3. Inquiries regarding deposits must include a copy of the canteen receipt.

H. Offender Statement of Telephone Charges:

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1. Once each month, offenders placing debit calls will receive a "Reconciliation Report" which reflects all debit activity occurring under their PIN and the remaining balance as of the date of the "Reconciliation Report."
2. THERE WILL BE NO EXCEPTION TO OR SPECIAL PRINTING OF THE MONTHLY RECONCILIATION REPORT. When an offender is released from the DOC, or is permanently assigned to a program or facility without access to CIPS, a final statement will be run and authorization for calling will be terminated. Any remaining funds in an offender's CIPS account will be refunded through inmate banking.

I. Collect Calling Issues

1. To resolve collect calling issues, the person who owns the telephone number must contact MCI customer service at 1-800-231-0193.
2. Offenders will not be allowed to contact MCI customer service, nor will they be able to authorize collect calls to any number.

J. Summary of CIPS Program

1. All offenders may submit a list of up to 15 numbers they wish to call.
2. Allows offenders preprogrammed telephone numbers with their PIN (Personal Identification Number).
3. Allows telephone numbers to be any combination of local, intrastate, and interstate long distance, or international calls.
4. Allows offenders up to a maximum of 20 minutes for each call. Offenders may redial the call for as many additional 20 minute time periods as money allows.
5. Debit, direct dialed calls, are less expensive than collect calls.
6. Requires offenders to maintain a balance in their CIPS account of sufficient funds to cover the cost of their debit calls.
7. Requires all offenders to complete specific procedures prior to initiating a call. These procedures are outlined in this administrative regulation. Calling instructions are also printed on the reverse side of the offender's copy of the "Inmate Phone List" form (Attachment "A" and are duplicated in Attachment "B").
8. Offender calls between facilities through CIPS are prohibited.
9. If an offender is unable to resolve concerns and legitimate complaints regarding CIPS with facility staff or case manager, he/she is advised to send a letter of explanation with appropriate copies of disputed call records to the CIPS coordinator at CTCF. All offender requests for credit and/or disputed money issues must be referred to the CIPS coordinator for resolution. Per administrative regulation 850-04, *Grievance Procedure*, offenders have 30

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calendar days from the day they knew, or should have known, of the circumstances giving rise to their claim to file a request for remedy. For CIPS, this is 30 calendar days from the day they receive their "Reconciliation Report" showing all the charges for calls.

K. Telephone Regulations

1. Offenders will be allowed access to the telephone based upon their assigned facility's procedures.
2. All offender telephones are programmed to be active from 6:00 a.m. each morning until 12:00 midnight each night.
3. NO incoming telephone calls from family members will be accepted at any location, except for emergency calls. Emergency calls from a family member will then be handled per established facility/office procedures.
4. Only one offender will be allowed at a telephone at a time. Offenders not making phone calls will not be permitted to congregate near the telephone area.
5. NO THIRD PARTY BILLINGS, CREDIT CARD CALLS, THREE-WAY CALLING, OR CONFERENCE-TYPE CALLING WILL BE PERMITTED. Offenders convicted of *Code of Penal Discipline* charges related to their phone use are subject to the loss of their phone privileges.
6. Offenders will be responsible for their use of the telephone. They are expected to conduct themselves in a responsible manner and respect other offenders. Each offender is responsible for the content of the telephone calls he/she makes. Restriction of the telephone privileges may be imposed for violation of any rules regarding use of the telephone.
7. Repeatedly dialing the same number or numbers without positive acceptance shall be considered abuse or misuse of the offender phone system.
8. The use of the telephone will not interfere with the facility's schedules, correctional programs, work assignments, or counts. When a count is conducted, all offenders on telephones shall terminate their calls immediately. During facility emergencies, use of telephones may be curtailed or terminated.
9. Any offender found submitting fraudulent information on any of the documents associated with CIPS may be subject to COPD charges and/or loss of telephone privileges.
10. An individual who does not want to receive calls, either debit or collect, from any state correctional facility utilizing CIPS, may request that his/her number be blocked. Requests must be made in writing to the CIPS coordinator, P.O. Box 1010, Cañon City, CO 81215. Requests must include the number to be blocked and signature of the individual that phone company records show responsible for that number. Reinstatement of removed numbers is allowed only one time.

L. Legal Calls

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1. If an offender wishes to make an unmonitored or unrecorded legal call, the offender must provide the attorney registration number for his/her legal counsel on the "Inmate Phone List" form, along with the business address and telephone number of the attorney.
2. Once the request has been received in the CIPS administration office, the attorney registration number, address and phone number will be verified. Upon verification, the speed-dial number will then be changed by the CIPS input operator to a number beginning with "9" and the offender will be advised of the new speed-dial number.
3. Only a business telephone number for attorneys will be given the status of unmonitored or unrecorded. Attorney home phone numbers will be subject to monitoring and recording.
4. Offenders who are notified of an imminent, previously unknown, court deadline within ten days or less, may be allowed to communicate with their counsel by telephone on a emergency basis. The offender may be allowed to place a collect call to or to receive a call from his/her attorney of record. Arrangements must be made with the offender's case manager. Verifiable documentation shall be provided to the case manager by the attorney or offender.

M. Indigent Offenders

1. All offenders who choose to participate in the CIPS program may place collect calls.
2. In accordance with AR850-14, *Indigent Offenders*, the administrative head, or designee, may direct that the state bear the expense of offender telephone use, only under compelling circumstances. These calls will be logged and supervised by assigned staff. These logs will be forwarded to the administrative head's office for review on a monthly basis, or more frequently as directed by the administrative head.

N. Offenders in Special Housing Status

1. Offenders placed in segregation, mental health holds, medical units, or other restrictive areas, will be allowed access to telephones as provided by facility/office policies, except for calls related specifically to the access of an attorney. [4-4271] [4-4272]
2. These calls will be scheduled, logged, and monitored by the unit staff. Offenders will place calls in accordance with standard procedures. Staff shall use discretion in the scheduling of all telephone calls. Offenders who are found in violation of these procedures, or who abuse this program in any way, may lose their privilege of making calls, either temporarily or permanently.
3. Each unit housing offenders in special status will maintain a telephone log book of all calls made (offender's name, DOC number, date and time of call, and whether the call was completed).

- O. Telecommunication Devices for the Deaf (TDD) [4-4497]: General guidelines for use of telephone devices for the deaf (TDD) are the same as those outlined for the offender telephone system (CIPS Program) in accordance to facility procedures. TDDs will be made available to hearing impaired offenders.**

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1. **Maintaining telephone contact with family members and attorneys, through the use of a TDD, is a privilege afforded to hearing impaired offenders who demonstrate their willingness to conduct themselves in a responsible manner.**
2. **Since TDD calls are placed using the DOC switch, rather than CIPS, any TDD call must be placed as a collect call, without exception. Pre-paid or debit platform calls are not allowed.**
 - a. **The TDD will be connected to a staff phone or staff analog telephone line. The number for Relay Colorado is 1-800-855-4000, which is a TTY operator, who relays by type the typed information from the caller to the called party and vice versa.**
 - b. **Because the conversation is a typed transcription and a relay service is utilized, the time limit has been increased to 30 minutes per call.**
 - c. **All offender phone calls, with the exception of approved legal calls, will be recorded and subject to monitoring. The typed transcription of the conversation will be forwarded to the facility intelligence coordinator and kept for a minimum of 60 days. If the conversation is a verified legal call, the digital printout will be immediately given to the offender without prior reading by staff.**

P. Prohibited Acts

1. **Violation of any of the rules regarding the use of telephones will be cause for disciplinary action with possible termination or restriction of telephone privileges. Conversations about illegal activities, either inside or outside the institution, may lead to criminal prosecution and/or processing under the COPD.**
2. **Offenders suspected of defrauding the telephone vendor in either the debit or collect platform, or abusing the phone system, may have telephone privileges suspended for 30 days by the CIPS coordinator, pending further investigation. Offenders who misuse or abuse the phone system may be denied phone privileges and/or charged under the COPD. Sanctions may include permanent loss of phone privileges and/or restitution to the vendor.**
3. **Telephones found to be intentionally or repeatedly abused will not be repaired for a period of time as specified below:**
 - a. **First occurrence, phone will not be repaired for 30 days.**
 - b. **Second occurrence, phone will not be repaired for 60 days.**
 - c. **Third occurrence, phone will not be repaired for 90 days.**

V. RESPONSIBILITY

Each administrative head shall ensure adherence to this administrative regulation by staff and further ensure that appropriate policies are completed and implemented to effect needed compliance.

VI. AUTHORITY

CRS 17-1-103. Duties of the executive director.

VII. HISTORY

October 15, 2002
January 15, 2002
October 15, 2001
October 15, 2000
December 1, 1999
November 1, 1998
April 1, 1998
November 1, 1996
June 30, 1995

- ATTACHMENTS:
- A. DC Form 850-12A, Colorado Inmate Phone System Inmate Phone List
 - B. DC Form 850-12B, CIPS Calling Instructions
 - C. Debit Inmate Phone Rates effective 12/01/01
 - D. DC Form 100-1A, Administrative Regulation Implementation/Adjustments

**COLORADO INMATE PHONE SYSTEM
INMATE PHONE LIST**

DC Form 850-12A (01/02)

NAME: _____ DOC NO. _____

FACILITY: _____ UNIT: _____

Check One: Initial List Addition Change

Indicate if the recordings should be played in Spanish by checking the box in the Spanish column for each number

SD#	Name	Relationship	Address, City, State	Area Code/Number	SPANISH
11				()	<input type="checkbox"/>

Indicate if the recordings should be played in Spanish by checking the box in the Spanish column for each number

12	()	[]
13	()	[]
14	()	[]
15	()	[]
16	()	[]
17	()	[]
18	()	[]
19	()	[]
20	()	[]
21	()	[]
22	()	[]
23	()	[]
24	()	[]
25	()	[]

I understand the provisions of the administrative regulations on telephone use by offenders. ALL phone calls, except identified and authorized attorney calls, through CIPS are subject to monitoring and/or recording by staff. Offenders are totally responsible for their calls and violations of regulations or the law may result in disciplinary action and/or criminal/civil prosecution. NO third party billings, credit card calls, three-way calling, or conference-type calling will be permitted. Offenders convicted of Code of Penal Discipline charges related to telephone use are subject to the loss of their telephone privileges. Offenders found in possession of, sharing, or using another offender's PIN will be charged per the Code of Penal Discipline.

Offender Signature: _____ **Date:** _____

Case Manager Signature: _____ **Date:** _____

CIPS Input Operator: _____ **Date:** _____ **PIN:** _____

Distribution: White - CIPS Master Files Yellow Case Manager Pink Offender
Attachment "A"
Page 1 of 1

DC Form 850-12B (10/03)

CIPS CALLING INSTRUCTIONS

1. Lift the handset and listen for a dial tone.
2. Dial your 10-digit PIN immediately followed by the two-digit speed-dial number that corresponds to the person you wish to call. DO NOT WAIT FOR ANY ADDITIONAL TONES between when you dial your PIN and the speed-dial number. Your PIN consists of your DOC number and a randomly generated four digit PIN (shown at the bottom of your Inmate Phone List form). If an inmate's DOC number is less than six (6) digits the PIN is preceded by zero(es).
3. The system will issue a prompt, indicating to dial "1" for debit and "2" for collect.
4. If you press "1" for debit then you are paying all charges for the call.
 - a. The system will check the balance in the CIPS account to determine the length of the call. There must be enough monies available for anything between the three (3) minute minimum and the twenty (20) minute

- b. When an offender initializes her/his account the first time, a recording will be activated asking the offender to state his/her name. The offender will make this recording one time. Thereafter, when placing a debit call, the same recording automatically plays to the called party.
 - c. The debit call will be announced to the called party as being prepaid and branded as coming from a state correctional facility. The branding message repeats at random intervals during the call.
 - d. You will not hear the call set up. The called party must press "5" to accept the debit call.
5. If you press "2" for collect, the called party pays all charges for the call.
- a. Program records will be queried.
 - a. If the called number participates in the program, billing cycle limits will be validated. If present limits have not been reached call set up will proceed. If preset limits have been reached, the call will be terminated.
 - b. If the called number has no telephone company restrictions or any collect call restrictions, the call set up will proceed.
 - b. When an offender initializes her/his account the first time, a recording will be activated asking the offender to state his/her name. The offender will make this recording one time. Thereafter, when placing a collect call, the same recording automatically plays to the called party.
 - c. The collect call will be announced to the called party as being collect and branded as coming from a state correctional facility. The branding message repeats at random intervals during the call.
 - d. You will not hear the call set up. The called party must press "5" to accept the collect call.

CIPS INFORMATION

- 1. You may query your account balance or the cost of the last call by dialing your PIN, immediately followed by 00 (zero, zero).
- 2. All telephones used by offenders for other than authorized attorney calls are subject to recording and/or monitoring by staff. Notice of the potential for monitoring shall be posted on or near offender telephones.
- 3. If an offender wishes to make an unmonitored or unrecorded legal call, the offender must provide the Attorney Registration Number for their legal counsel on the Inmate Phone List form, along with the business address and telephone number of the attorney. Once the request has been received in the CIPS Administration Office, the Attorney Registration Number, address, and phone number will be verified. Upon verification, the speed-dial number will then be changed by the CIPS Input Operator to a number beginning with "9" and the offender will be advised of the new speed-dial number.
- 4. For issues concerning calling problems or problems with your account, contact your case manager or write to CIPS.

Attachment "B"

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COLORADO INMATE PHONE SYSTEM

DEBIT INMATE PHONE RATES

Effective 12/01/01*

***RATES ARE SUBJECT TO CHANGE**

LOCAL CALLS

PER CALL \$1.25

INTRA-LATA RATES

CALLS PLACED TO A NUMBER WHICH IS NOT LOCAL BUT IS WITHIN THE SAME CALLING AREA:

719 TO 719 303 TO 720 720 TO 303 970 TO 303
 303 TO 970 720 TO 970 970 TO 720
 303 TO 303 720 TO 720 970 TO 970

SURCHARGE PER CALL	\$1.00
DAY RATE PER MINUTE (8:00am to 5:00pm)	\$0.20
NIGHT RATE PER MINUTE (5:00pm to 8:00am)	\$0.11
WEEKEND RATE PER MINUTE (8:00am Sat. to 5:00pm Sun.)	\$0.11

INTER-LATA RATES

CALLS PLACED TO A NUMBER IN ANOTHER CALLING AREA, WITHIN THE STATE:

719 TO 303 303 TO 719
 719 TO 970 720 TO 719
 719 TO 720 970 TO 719

SURCHARGE PER CALL	\$1.25
RATE PER MINUTE (ANY TIME)	\$0.19

INTER-STATE RATES

CALLS PLACED TO A NUMBER IN ANOTHER STATE

SURCHARGE PER CALL	\$1.25
RATE PER MINUTE (ANY TIME)	\$0.19

