Via Electronic Comment Filing System

October 3, 2014

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

Re: Notice of ex parte meetings of Praeses LLC
   Rates for Interstate Inmate Calling Services
   WC Docket No. 12-375

Dear Ms. Dortch:

   By this letter, and pursuant to Sections 1.1206(a)(1) and (b)(1)-(2) of the rules of the
   Federal Communications Commission (“FCC” or “Commission”), 1 Praeses LLC (“Praeses”),
   through its counsel, provides notice of certain October 1, 2014 meetings between Praeses
   representatives and representatives of the Commission. Specifically, the following
   representatives of Praeses participated in five meetings with Commission staff: Nil Shah,
   Chairman of Praeses; Ann O’Boyle, General Manager of Praeses’ Correctional Services
   Division; and the undersigned. Praeses separately met with:

   ! Pamela Arluk, Lynne Engledow, Kalpak Gude, Rhonda Lien, and David Zesiger of the
     Wireline Competition Bureau, and Sarah Citrin and Richard Mallen of the Office of
     General Counsel;
   ! Rebekah Goodheart, Wireline Legal Advisor to Commissioner Mignon Clyburn;
     Christine Sanquist, Intern to Commissioner Clyburn; and Kalpak Gude, Lynne Engledow,
     and Patrick Halley of the Wireline Competition Bureau;
   ! Valery Galasso, Special Advisor and Confidential Assistant to Commissioner Jessica
     Rosenworcel;
   ! Nicholas Degani, Wireline Legal Advisor for Commissioner Ajit Pai; and
   ! Amy Bender, Wireline Legal Advisor to Commissioner Michael O’Rielly.

   Praeses provided background in each meeting regarding the company. Praeses was
   founded in 1987 and has approximately 100 employees divided into three divisions. In addition

   1 47 C.F.R. §§ 1.1206(a)(1), (b)(1)-(2).
to divisions that develop software for the U.S. military and state and local governments, Praeses has a division that assists correctional facilities in evaluating and negotiating contracts with inmate calling services (“ICS”) providers, monitoring the compliance of such ICS providers with the contracts, and/or complying with local, state, and federal regulation of ICS.

Praeses asserted that the Commission’s *ICS Report and Order*\(^2\) effectively accomplished the Commission’s objective of reducing the interstate ICS rates charged to inmates, which, in turn, caused an increase in call volume. Specifically, Praeses compared interstate ICS data received on behalf of certain correctional services clients covering two four-month periods: April to July 2013, which is prior to the release of the *ICS Report and Order*, and April to July 2014, which is following the effective date of the *ICS Report and Order*. Praeses found that call volume increased nearly seventy percent between these two periods, while ICS revenue from these calls was essentially the same. At the same time, payments to these correctional facilities by ICS providers in connection with interstate ICS revenue dropped by seventy percent, and it appears that ICS providers retained this revenue.

*Payments by ICS Providers to Correctional Facilities to Enable Correctional Facilities to Recoup Their Direct ICS Costs*

Praeses explained that a great deal of confusion exists within the ICS industry regarding the permissibility of payments by ICS providers to correctional facilities. This confusion has generally prevented ICS providers and correctional facilities from modifying their contractual arrangements to the extent needed in light of the new regulatory environment caused by the *ICS Report and Order*. Certain ICS providers have taken the position that it would be against the law to make contractually required payments to correctional facilities and have unilaterally stopped making such payments. However, it appears that the Commission has not adopted a blanket prohibition on such payments, and correctional facilities are aware of this.\(^3\) Praeses requested the Commission to clarify the permissibility of payments in future orders in this proceeding.

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\(^3\) See *ICS Report and Order*, 28 FCC Rcd at 14137 ¶ 56 (stating that the FCC does “not conclude that ICS providers and correctional facilities cannot have arrangements that include site commissions”); see also Brief for the Federal Communications Commission at 38-39 n.6, Securus Technologies Inc. v Federal Communications Commission, Nos. 13-1280, 13-1281, 13-1291, 13-1300, 14-1006, n. 6 (D.C. Cir. July 21, 2014) (“Accordingly, although the agency did not deem site commissions, as a category, a compensable cost of providing inmate calling services, the agency did allow some leeway: To the extent commission payments reimburse a correctional facility for costs reasonably related to the provision of inmate calling services, a provider may recover those portions of its payments in end-user rates.”) (citations omitted).
Praeses also explained that correctional facilities incur real costs to enable inmate calling, including, but not limited to, real estate/facilities expense; capital expenditures for equipment; call monitoring and recording; responding to law enforcement requests related thereto; compliance and implementation with call security protocols; responding to inquiries by inmates and inmate call recipients; registering, approving, blocking and unblocking the telephone numbers of call recipients; coordinating with ICS providers, including escorting ICS provider technicians and inmates to calling areas; and educating staff, inmates, and inmate call recipients regarding facilities’ ICS policies. Praeses stated that these costs vary among different types of correctional facilities and vary based on the scope of the services provided under the contracts between the facilities and their ICS vendors. Praeses also acknowledged that there currently is a shortage of information on the record in this proceeding about the facilities’ costs associated with the provision of inmate calling services. Despite this, however, Praeses affirmed that the costs are real, and Praeses indicated its intention to work with its correctional facilities customers to bolster the record with respect to this matter.

Further, Praeses requested for the Commission to propose a clear mechanism by which ICS providers can make payments to correctional facilities to enable the facilities to recoup their direct ICS costs. Praeses agreed that a variety of potential payment mechanisms may be used, including payments that are equal to a percentage of ICS revenues, as well as certain flat per-minute, per-call, or per-inmate fees, in each case based on the facilities’ demonstrable ICS costs. Praeses acknowledged that there is likely to be a certain amount of tension between ensuring that the payments are cost-based and developing a payment mechanism that is administratively efficient, in each case in light of the wide variability among correctional facilities with respect to the direct ICS costs that each facility bears. Praeses suggested that it may be appropriate for the Commission to develop a safe harbor payment level in addition to a payment cap—in much the same way that the Commission regulated interstate ICS rates in the ICS Report and Order in light of the varying ICS costs borne by ICS providers with respect to the different types of correctional facilities served by such ICS providers.

**Ancillary Fees Charged to Inmates by ICS Providers**

Praeses commended the Commission on its focus on the various ancillary fees that ICS providers charge to inmates. In Praeses’ experience, these ancillary fees often have no relation to actual costs borne by ICS providers, but instead have become a mechanism by which ICS providers sustain or increase their overall ICS revenues. Although Praeses advises its correctional facilities clients to contractually limit the ability of ICS providers to charge such ancillary fees to inmates and their friends and families, Praeses also believes that the Commission should adopt regulations expressly restricting the types and amounts of such fees in both the intrastate and interstate ICS contexts. Praeses continues to review with its correctional facility clients the proposal recently submitted to the Commission by certain ICS providers and intends to provide further evaluation of the proposal to the Commission. However, Praeses
stated that, based on its initial review of the proposal, Praeses is skeptical that certain of the proposed ancillary fees are justified.

Please direct any questions regarding the foregoing to the undersigned.

Respectfully,

/s/ Phil Marchesiello
Phil Marchesiello
Counsel to Praeses LLC

cc (all via electronic mail):

Pamela Arluk
Amy Bender
Sarah Citrin
Nicholas Degani
Lynne Engledow
Valery Galasso
Rebekah Goodheart
Kalpak Gude
Patrick Halley
Rhonda Lien
Richard Mallen
Christine Sanquist
David Zesiger