

**CAHILL GORDON & REINDEL LLP**

SUITE 950

1990 K STREET, N.W.

WASHINGTON, D.C. 20006-1181

EIGHTY PINE STREET  
NEW YORK, N.Y. 10005-1702  
(212) 701-3000  
FAX: (212) 269-5420

TELEPHONE (202) 862-8900  
FACSIMILE (866) 255-0185

AUGUSTINE HOUSE  
6A AUSTIN FRIARS  
LONDON, ENGLAND EC2N 2HA  
(011) 44.20.7920.9800  
FAX: (011) 44.20.7920.9825

CHÉRIE R. KISER | 202-862-8950 | ckiser@cahill.com

October 3, 2012

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Notice of Ex Parte Presentation - CC Docket No. 96-128**

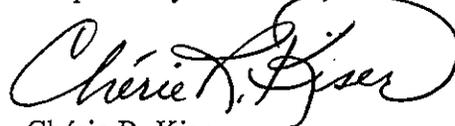
Dear Secretary Dortch:

On October 2, 2012, Brian Oliver, Chief Executive Officer of Global Tel\*Link Corporation ("GTL"), David Silverman, Senior Vice President and General Counsel of GTL, and the undersigned met with Priscilla Delgado Argeris, Legal Advisor to Commissioner Rosenworcel, to discuss matters relating to inmate calling services ("ICS").

Specifically, GTL provided an overview of the ICS industry business model, the unique security requirements and other needs of its correctional facility customers, and the differences between ICS and traditional telecommunications services. The attached presentation reflects the substance of the parties' discussions.

Please contact the undersigned if you have any questions regarding this matter.

Respectfully submitted,



Chérie R. Kiser

Counsel to Global Tel\*Link Corporation

Attachment

cc: Priscilla Delgado Argeris



## **Inmate Calling Services CC Docket No. 96-128**

**October 2, 2012**



INTEGRITY | INNOVATION | RESPONSIVENESS | ACCOUNTABILITY

# Company and Industry Overview



- Leading provider of telecom and technology products to the US corrections industry
- Serves over 1,900 facilities and 1.11 million inmates in 47 states and over 800 counties, including 34 of 50 largest
- Best-in-class technology and product features with broadest product suite
- Serves 33 state DOC contracts, including 14 of the largest 20; maintains a system of over 65,000 phones across 1,900 facilities

## Other Inmate Service Provider Competitors

Securus/T-Netix

Unisys

Telmate

Legacy Long Distance International

Combined Public Communications

Talton Communications, Inc.

CenturyLink/Embarq

Inmate Calling Solutions (ICS)

Pay-Tel Communications

Infinity Networks, Inc.

Inmate Communications Corporation

Network Communications International Corp.

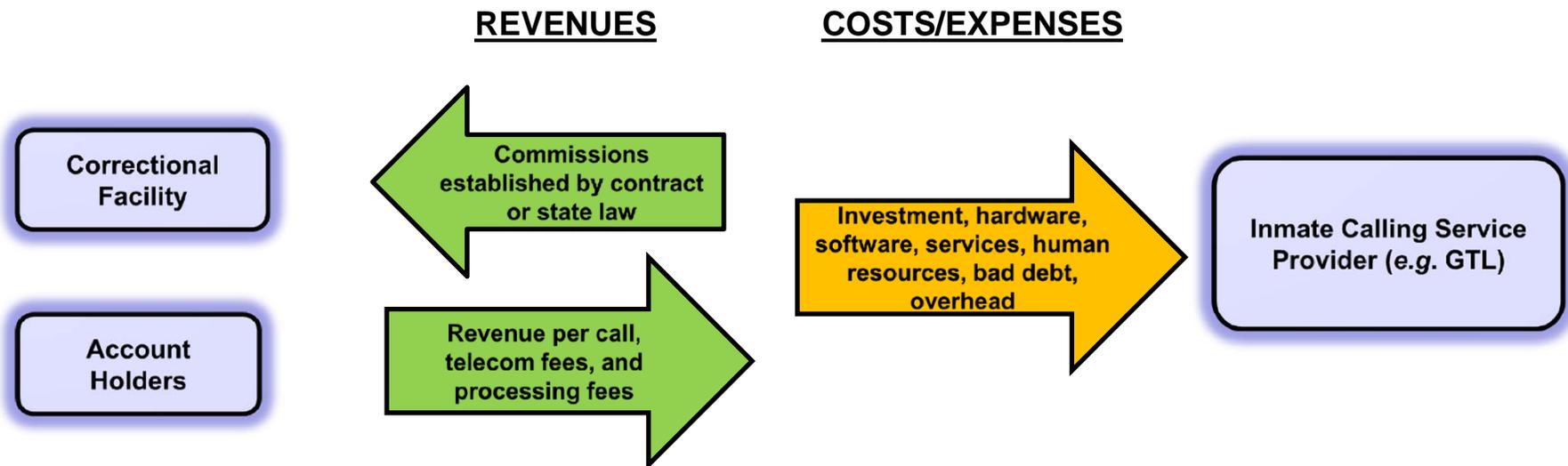


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# History of the Company and Business Model



- GTL has been providing telecom services to correctional facilities since 1989.
- Prior to competition, these services were provided by ILECs and AT&T. In 2005, GTL began a series of acquisitions that included: AT&T's National Public Markets (payphone) business, MCI's Department of Corrections business, and SBC's inmate payphone contracts.
- GTL enters into contracts with correctional facility customers via competitive bidding process (RFP).



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# Inmate Calling Is More than Telephone Service, It Must Address Unique Security Concerns



- **GTL provides specialized security technology, human resources, and related services:**
  - investigative and security features for law enforcement, homeland security and correctional facilities
  - fraud control features to prevent call-forwarding and conference calling
  - biometric caller verification based on voice-analysis
  - real-time recording and monitoring capabilities, and cell phone detection investigative tools
  - on-site administrators
  - proactive diagnostic monitoring for software and hardware failures
  
- **Security features offered by inmate calling systems are of paramount importance - in the past few years, GTL's inmate calling systems have been used to:**
  - track down potential suspects during crime investigations and uncover evidence of new crimes (Salt Lake City Sheriffs Office, Massachusetts DOC, and Westchester County, NY)
  - stop murder-for-hire plots (Monroe County, NY)
  - prevent harm to judges and prosecutors (Mobile County, AL)
  - stop unsolicited collect calls to citizens and subsequent theft of their phone service (Shelby County, TN)
  - thwart drug smuggling (Imperial County, CA)



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# Inmate Calling Is More than Telephone Service, It Must Address Unique Security Concerns (cont'd)



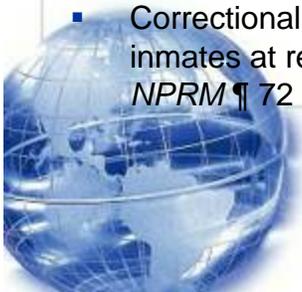
- **Correctional facilities have stressed the importance of security in inmate calling services**
  - *“The security considerations involved with the operation of inmate telephone systems are imperative to and unique in a correctional setting.”* **Massachusetts Department of Corrections**
  - *“[T]he Commission should remain mindful that provision of inmate telephone services at correctional facilities is a critical component of the overall enhancement of the safety and security of these facilities, the inmate population, the correctional staff, and the general public.”* **GEO Group Inc.** (private entity operating prisons)
  - *“[T]he Commission has correctly recognized in the past the unique circumstances, particularly relating to security concerns, surrounding the provision of inmate telephone service at correctional facilities. More specifically, the Commission has historically given great deference to corrections officials regarding the operation and management of correctional facilities and exempted inmate telephone service from certain requirements typically applied to other providers of telecommunication services.”* **Association of Private Correctional and Treatment Organizations (APCTO)**
  
- **Recent press reports confirm security features support law enforcement, homeland security**
  - Prisoner ordering gang killings from jail telephones, *The New York Times* (July 8, 2012)
  - Recorded prison telephone calls stop plan to kill witness, *The New York Times* (October 6, 2011)
  - Terrorist recruitment in prisons, *NPR* (June 15, 2011)



# FCC Has Previously Found Inmate Calling Differs from Traditional Telecom Due to Unique Security Concerns



- Inmate phone service “presents an exceptional set of circumstances” given that inmate calls require “special security measures” based on the “security needs” of the correctional facility. *Policies and Rules Concerning Operator Service Providers*, 6 FCC Rcd 2744, ¶ 15 (1991); *Billed Party Preference for InterLATA 0+ Calls*, 16 FCC Rcd 22314, ¶ 15, n.46 (2001)
- “[I]nmate calling services, largely for security reasons, are quite different from the public payphone services that non-incarcerated individuals use.” *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd 3248, ¶ 9 (2002) (“2002 Order and NPRM”)
  - Calls “must be collect; there can be no coin calls or credit card calls.”
  - “[P]rison security rules typically require that a special automated voice-processing system, rather than a pre-subscribed operator service provider (OSP), process inmate collect calls, in order to provide prison authorities with the ability to screen phone calls.”
  - Inmate phone services must “employ numerous blocking mechanisms to prevent inmates from making direct-dialed calls, access code calls, 800/900 calls, or calls to certain individuals like judges or witnesses. In fact, calls from confinement facilities often are limited to certain pre-approved numbers.”
  - Correctional facilities “require that phones be monitored for frequent calls to the same number, a sign of possible criminal activity or a scheme to evade calling restrictions via call-forwarding or three-way calling.”
  - Correctional facilities “usually require periodic voice-overlays that identify the calls as being placed from a confinement facility, as well as listening and recording capabilities for all calls.”
  - Inmate phone systems “generally must provide detailed, customized reports for confinement facility officials.”
- Inmate telephone systems are not required to provide the caller access to the carrier of their choice; inmates are limited to the carrier selected by the prison due to the special security requirements applicable to inmate calls. *Billed Party Preference for InterLATA 0+ Calls*, 13 FCC Rcd 6122, ¶¶ 56-57 (1998)
- Correctional facilities and service providers must “balance the laudable goal of making calling services available to inmates at reasonable rates . . . with necessary security measures and costs related to those measures.” *2002 Order and NPRM* ¶ 72



## FCC Understands Commissions and Rates Are Established by State Law and Correctional Facility Contracts



- Commissions and rates vary among state, county and municipal facilities, and are established based on a *determination by local policy makers* of the right balance between revenue agencies and costs to consumers
- FCC has directed that any discussion of “rates for inmate services must embrace the states.” *2002 Order and NPRM ¶ 29*
- In most cases, commissions collected pursuant to state law are channeled back into the facilities to fund inmate health/welfare programs or for other public interest purposes
  - Arizona - commissions at the state level to be placed in Special Services Fund to purchase recreation equipment, library and education supplies, victim notification system, inmate medical costs, and inmate canteen supplies
  - Alabama - commissions at the county level to be used for the Sheriff Law Enforcement Fund, which supports county law enforcement
  - Arkansas - commissions at the county level to be deposited in the sheriff’s fund for maintenance and operation of the county jail
  - Connecticut - commissions at the state level to be used for inmate educational services and re-entry program initiatives, and to the judicial department for administration of the probation program
  - Massachusetts - commissions at the DOC level to be returned to the General Fund of the Commonwealth and commissions at the county level be used to fund prisoner programs
    - The Suffolk County Sheriff’s Department has indicated these funds are used for educational and vocational training for inmates, re-entry programs, HIV programs, recreational and library supplies, and mentoring programs
  - Texas - any proposal to provide inmate calling service to the Texas Board of Criminal Justice must include a commission of not less than 40% with half deposited in a victim compensation fund and the other half into the general revenue fund



# Local Officials Believe Commissions Have Significant Public Benefit



- **Correctional facilities have recognized the significant benefit of commission payments to inmates, victims, and the public at large**
  - *“To eliminate commissions would have a negative impact on the inmates as phone companies and jails will be left with no option but for removal of the phones.”* **Comments of Brevard County Sheriff**
  - *“[T]he Virginia Department of Corrections utilizes the commission monies attained from the inmate phone system to fund the Victim Information Network (VINES). The VINES system is utilized to notify victims’ of changes in the status of Virginia prisoners. Such as if the inmate is scheduled for a parole review or has been transferred to a new prison facility. It is uncertain with the proposed commission funding cuts if the Victim Information Network (VINES) could continue to operate.”* **Virginia Department of Corrections**
  - *“[T]he benefits of those funds I think we all can agree are beneficial to the inmates themselves. They are beneficial to the staff and security of the institutions. And they are also very beneficial to the public as a whole. Those funds are used to help prevent recidivism. They provide security to the staff at the institution. They provide security to the inmates themselves.”* **Suffolk County, Massachusetts Sheriff’s Department**
  - *“The inmate telephone companies provide critical funding which is a primary source of financial support for a multitude of beneficial programs such as; inmate welfare funds, anti-recidivism programs, AIDS education, basic adult education, substance abuse and child abuse prevention programs that assist the inmates, and their families. ... If these site commissions are eradicated, our jails would be forced to request additional public funding, thus putting further stress on an already struggling economy.”* **Arkansas Sheriffs’ Association**
  - *“We are also concerned about the complete elimination of site commissions to correctional facilities. These commissions provide a critical source of funding for inmate programs within the institution. Adult education programs, substance abuse treatment and counseling and other such programs may have to be eliminated if commissions are disallowed.”* **American Correctional Association**
  - *“Many of our nation’s jails receive commissions from the telephone providers. Often, the revenues generated from the inmate telephone service are placed in what is known as an ‘Inmate Welfare Fund’ (IWF). The revenues contained in this fund must be utilized in programs that benefit inmates. Examples of such programs are drug and alcohol treatment, literacy training, G.E.D., vocational, etc.”* **American Jail Association**



# Due to Security Concerns, Inmate Calling Is Not a One-Size-Fits-All Offering



- **Correctional facilities mandate individually-tailored service offerings to address unique security concerns**
  - Correctional facility is customer of record and determines how services are to be offered and associated pricing; FCC has recognized that “the correctional facility and its communications policy” make the decisions regarding inmate calling systems. *2002 Order and NPRM* ¶ 19
  - *“Further, how to obtain inmate telephone service resources and how to utilize them efficiently are institutional management decisions. Such decisions are to be made by correctional professionals, not by federal regulators whose regulatory jurisdiction does not include correctional management experience.” APCTO*
  - *“Recognizing the substantial and ‘special security requirements applicable to inmate calls,’ the Commission declined to adopt these regulatory requirements, including price benchmarks, in large part because of the variety of correctional facilities that must individually assess and implement inmate calling services. These correctional facilities may house only a few prisoners each day, or may house thousands. These facilities may be located in rural areas, or in urban areas; they may be minimum security or maximum security facilities. Finally, correctional facilities may hold prisoners for short periods, or for very long periods. . . .all of these factors play a role in the policy decisions that governmental authorities and correctional facility managers make with regard to the extent of precautions that need to be taken with respect to their inmate calling system, and the administrative procedures that they can implement to provide cost-effective services for inmate calls.”*  
**Corrections Corporation of America (CCA)** (private entity operating prisons on behalf of government entities)
- **Inmate calling requires specialized billing and collection to address security concerns**
  - Calls must be placed on a collect, prepaid, or debit basis for security reasons. *2002 Order and NPRM* ¶ 9
  - Prepaid and debit billing do not reduce cost of call due to security and increased instances of credit card fraud
  - Calls placed as prepaid or debit are still considered “operator-assisted” because positive acceptance of the call prior to completion is necessary for security reasons



# It Is Inaccurate to Compare Inmate Calling Rates to Traditional Telecom Rates due to Security Concerns and Other Public Policy Choices



- **Inmate calling services are payphone services not presubscribed long distance services**
  - *“The most appropriate evaluation of inmate calling rates, however, would be to compare the rates charged for calls from correctional facilities with the rates charged for person-to-person collect calls that are available to the general public. Courts and the Commission have recognized the need of correctional facilities to identify, monitor, and block inmates calls to specific individuals, and this need, in addition to the need to establish other security measures, makes station to station calls the more comparable model.”* **Corrections Corporation of America (CCA)**
  - *“The implication that inmate calling services - and the costs of providing such services - are comparable with rates for telephone services used by the general public and that the rates should be comparable is unsupported and unsupportable. Neither is the corollary implication that rates for operator-assisted calls from confinement facilities which exceed the rates for direct dialed, wireless, and even other payphone rates, are not just and reasonable.... In addition to the costs normally associated with provision of operator-assisted services, provision of inmate telephone services require unique sophisticated hardware and software in order to enhance the safety and security of the correctional facility, the inmate population, the correctional staff, and the general public. These unique services impose substantial additional costs - costs which the service providers are entitled to recover in their rates.”* **GEO Group Inc.**
- **Inmate calling rates are based on different pricing rationales than rates for other payphone services**
  - The FCC understands that inmate calling is “economically different than other payphone services.” *2002 Order and NPRM ¶ 12*
  - The FCC has determined that “the provision of inmate calling services implicates important security concerns and, therefore, involves costs unique to the prison environment.” *2002 Order and NPRM ¶ 72*
  - Correctional facilities have recognized that the “cost associated in installing these security phone systems . . . is the primary reason why rates charged for calls originating from a prison cannot be compared to ‘normal’ telephone rates charged on the outside world.” **Massachusetts Department of Corrections**



# Adequate Regulatory Constraints on Inmate Calling Exist at the Federal Level



- **FCC has appropriately rejected previous calls for federal intervention in inmate calling rates**
  - Uniform national rates for inmate calling could violate Section 276's mandate that "all payphone providers are fairly compensated" given differences in calling needs at each correctional facility. *2002 Order and NPRM ¶ 26*
  - FCC has found the contracts between inmate calling providers and correctional facilities provide fair compensation as required by Section 276. *2002 Order and NPRM ¶ 7*
  - Federal regulation of inmate calling would require the FCC to determine what is a provider's "fair compensation" for services offered on a correctional facility-by-correctional facility basis.
- **Regulation of inmate calling rates poses jurisdictional considerations**
  - FCC has acknowledged any reforms necessary must come at the state/local level based on relevant considerations for particular state/locality. *2002 Order and NPRM ¶ 29*
  - FCC has previously rejected preemption of state authority over inmate calling. *2002 Order and NPRM ¶ 24*



## Recent Claims



- **Reducing inmate calling rates would not eliminate problems with contraband cell phones**

- Inmates use contraband cell phones to avoid the security and monitoring features of inmate calling systems in order to make unauthorized and unrecorded calls; the increased use of contraband cell phones is not related to the cost of inmate calling, GAO Report: Bureau of Prisons, Improved Evaluations and Increased Coordination Could Improve Cell Phone Detection (September 2011); GAO Report: Bureau of Prisons, Growing Inmate Crowding Negatively Affects Inmates, Staff, and Infrastructure (September 2012)

- **Primary driver for reducing recidivism is prisoner access to programs**

- Research has shown that educational, vocational, and other similar programs, such as the ones supported by commission payments, are the best deterrent to recidivism, GAO Report: Bureau of Prisons, Improved Evaluations and Increased Coordination Could Improve Cell Phone Detection (September 2011); GAO Report: Bureau of Prisons, Growing Inmate Crowding Negatively Affects Inmates, Staff, and Infrastructure (September 2012); Gregory B. Fairchild, *Help with the hard work of finding a job after prison*, Washington Post, September 30, 2012, at G3 (“One of the primary factors influencing recidivism . . . is not being able to find a job.”)

