

EXHIBIT 3

Screening Out Family Time:
The For-Profit Video Visitation Industry in Prisons and Jails

*Global Tel*Link Reply to Alabama Order*

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*ADMITTED IN DC ONLY

August 11, 2014

Via Electronic Filing and Federal Express

Mr. Walter Thomas, Executive Secretary
Alabama Public Service Commission
RSA Union Building
100 North Union Street, 8th Floor
Montgomery, AL 36104

**Re: Docket No. 15957
Comments of Global Tel*Link Corporation on Further Order Adopting
Revised Inmate Phone Rules**

Dear Mr. Thomas:

Global Tel*Link Corporation ("GTL"), by its attorneys, respectfully submits its Comments in the above-referenced proceeding. This letter and GTL's Comments have been submitted electronically via the Commission's website. The original and one copy of this filing are enclosed.

If you have any questions concerning this matter, please contact the undersigned.

Respectfully submitted,



Chérie R. Kiser

Counsel to Global Tel*Link Corporation

Enclosures

cc: Certificate of Service

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**BEFORE THE
ALABAMA PUBLIC SERVICE COMMISSION**

RE: GENERIC PROCEEDING)
 CONSIDERING THE) DOCKET 15957
 PROMULGATION OF TELEPHONE)
 RULES GOVERNING INMATE)
 PHONE SERVICE)

**COMMENTS OF GLOBAL TEL*LINK CORPORATION
ON FURTHER ORDER ADOPTING REVISED INMATE PHONE RULES**

Global Tel*Link Corporation (“GTL”),¹ through its undersigned counsel, respectfully submits its Comments on the Further Order Adopting Revised Inmate Phone Service Rules (“*Further Order*”), issued by the Alabama Public Service Commission (“Commission”) on July 7, 2014, in the above-referenced docket. In the *Further Order*, the Commission modifies and refines its original proposals presented in the Errata and Substitute Order Proposing Revised Inmate Phone Service Rules and Establishing Comment Period (“*Order*”), issued October 7, 2013. The *Further Order* seeks additional comment on Commission staff proposals to modify Commission Telephone Rule 1-15.1, which governs the provision of inmate calling service (“ICS”) in Alabama. Staff’s current proposals are based on the comments filed in response to the *Order*, information gained from data requests issued to ICS providers, and information Staff has learned through the pending Federal Communications Commission (“FCC”) proceeding addressing interstate ICS rates.² GTL offers the following comments on the proposals presented in the *Further Order*.

¹ These comments are filed by GTL on behalf of itself and its wholly owned subsidiaries that also provide inmate calling services: DSI-ITI, LLC, Public Communications Services, Inc., and Value-Added Communications, Inc.

² *Rates for Interstate Inmate Calling Services*, 28 FCC Rcd 14107 (2013) (“*FCC ICS Order and FNPRM*”), *pets. for review pending sub nom. Securus Technologies, Inc. v. FCC*, No. 13-1280 (D.C. Cir. filed Nov. 14, 2013).

I. SITE COMMISSIONS, ICS USAGE RATES, ANCILLARY FEES, SINGLE PAYMENT SERVICES, REFUNDS, AND INMATE CALLING CARDS

Site Commissions on Intrastate ICS

In the *Order*, the Commission determined that issues concerning the payment of site commissions are decisions best left for “state and local policy makers with fiscal oversight for prisons and jails.”³ In its comments to the FCC, the Commission further explained that, “[t]o the extent that site commissions are directly or tacitly authorized by state and local policy makers, they constitute costs that ICS providers must bear and [the Alabama commission is] therefore obligated to recognize those costs for purposes of establishing intrastate ICS rates.”⁴ In the *Further Order*, the Commission indicates that it “does not preclude recognition of site commissions in establishing intrastate ICS rates” and correctly recognizes that “inmates may not continue enjoying the same level of access to existing and emerging ICS services” if site facility costs are not recognized in ICS rates.⁵

GTL supports the Commission’s position that any ICS rate regime must consider the costs associated with commissions, which in Alabama are mandated by law.⁶ It is not appropriate to cap ICS rates while ignoring the single largest component affecting ICS rates - the commissions required to be paid to correctional facilities. In addition, it is not enough to merely hope that reductions in ICS rates will result in reduced site commissions. As long as site

³ *Order* at 9.

⁴ WC Docket No. 12-375, *Rates for Interstate Inmate Calling Services*, Comments of the Alabama Public Service Commission, 2-3 (filed Dec. 13, 2013) (“Alabama PSC Comments to FCC”).

⁵ *Further Order* at 16, 18.

⁶ Alabama county sheriffs have the authority to operate an inmate telephone system and use the revenues generated from the inmate telephone system, which are to be placed in a separate fund. *See, e.g.*, Ala. Code § 45-13-231 (authorizing the Sheriff of Clarke County to operate an inmate telephone system with revenues deposited in the Sheriff’s Jail Fund); Ala. Code § 45-25-231 (authorizing the Sheriff of DeKalb County to operate an inmate telephone system with revenues deposited into a special jail fund). Alabama law directs that the funds are to be used for expenses related to the jail population, salaries, equipment and supplies for the jail, office expenses, communications equipment, and for other law enforcement purposes that are in the interest of the public as the sheriff sees fit. *See, e.g.*, Ala. Code §§ 45-18-230; 45-22-232; 45-11-234; 45-19-232.

commissions are required to be paid, “fair and reasonable”⁷ ICS usage rates must be set to ensure recovery of the costs associated with those commissions unless and until the requirement to pay commissions is eliminated.

ICS Usage Rate Caps

The Commission’s mandate to “protect[] the public interest” and “ensure that Alabama confinement facilities are not unduly harmed by Commission action in this proceeding”⁸ will not be achieved if the proposed ICS rate caps are adopted. GTL takes no issue with the Commission’s proposal to remove the per-call charge and implement per-minute pricing for all calls, but GTL cannot support a “cost-based” ICS rate regime and the arbitrarily low per-minute rates proposed.

The Commission states that it has a “responsibility for ensuring that ICS providers include only justifiable and verifiable costs in ICS rates.”⁹ To fulfill that responsibility, the Commission proposes to apply interim rate caps and “analyze costs supporting future intrastate ICS rates.”¹⁰ In support of its proposed rates, the Commission relies on the *FCC ICS Order and FNPRM*, which adopted cost-based ICS rates.¹¹ However, reliance on the FCC’s “cost-based” approach to regulate ICS rates is flawed. As reflected in the decision of the United States Court of Appeals for the District of Columbia in response to petitioners’ (GTL and other ICS providers) challenge of the FCC’s cost-based ICS rules, the petitioners “satisfied the stringent requirements for a stay pending court review.”¹² This means the court has determined that the

⁷ *Further Order* at 49.

⁸ *Further Order* at 49.

⁹ *Further Order* at 45.

¹⁰ *Further Order* at 49, 104.

¹¹ *See, e.g., Further Order* at 39-40, 46-47; *Order* at 12-13.

¹² *Securus Techs., Inc. v. FCC*, Nos. 13-1280, 13-1281, 13-1291, 13-1300, Order (D.C. Cir. Jan. 13, 2014).

petitioners are likely to succeed on the merits, the petitioners will suffer irreparable harm absent a stay, and the equities favor a stay.¹³ The FCC decision does not support the Commission’s proposed cost-based rates requirement and GTL cannot support it.

The Commission’s “arbitrarily low” rate caps ignore the costs associated with providing ICS, which “will impede the continuing deployment of current-generation security measures and the development of next-generation security techniques. . . . [because] security does not come cheap.”¹⁴ The Commission must take into account “the entire relationship between ICS, telephone companies, and institutional safety and security” when setting ICS usage rates for Alabama.¹⁵ The costs associated with security and public safety requirements established by a particular correctional facility cannot be reduced to single rate formula. The security needs of each correctional facility vary dramatically depending upon numerous interrelated variables, including the size and location of the facility, the level of security needed, the length of incarceration and other characteristics of the inmate population, as well as the amount of money local administrators have and choose to spend on security features.

As GTL noted in its December 6 Comments, the Commission’s proposed rate caps are irrationally low when compared to non-inmate, intrastate collect calling offered to the general public in Alabama.¹⁶ While the Commission claims this comparison is meaningless because those providers are no longer regulated by the Commission,¹⁷ the record demonstrates that Alabama carriers are charging rates for non-inmate intrastate collect calling well above the rate

¹³ *Id.*

¹⁴ *FCC ICS Order and FNPRM*, Dissent at 129.

¹⁵ WC Docket No. 12-375, *Rates for Interstate Inmate Calling Services*, Comments on Proposed Rule Making by the Alabama Sheriffs Association (filed Apr. 22, 2013).

¹⁶ GTL December 6 Comments at 8.

¹⁷ *Further Order* at 38.

caps proposed by the Commission for ICS. These non-inmate collect calling services require no integrated security functionality, but are priced significantly higher than what the Commission has proposed for inmates who make the same type of calls with integrated security features that are an essential element of ICS.¹⁸ The Commission's proposed rate caps ignore the security costs inherent in ICS rates.

Moreover, the Commission provides no justification to support the setting of rates for prepaid/debit calls lower than the rates for automated collect calls.¹⁹ The costs incurred by ICS providers continue to exist regardless of the billing option selected by the prisoner or the consumer. All inmate-initiated calls involve some type of automated operator service to announce the call is being made from a prison, to obtain positive acceptance of the call from the called party, or to state the price of the call. These requirements apply under the FCC's rules for inmate operator services, as well as this Commission's inmate telephone rules (which also require compliance with the FCC's inmate operator service rules).²⁰

The proposed rate caps overlook the significant costs associated with prepaid and debit calling. ICS providers incur costs for the administration and ongoing maintenance of prepaid accounts, including customers' initial funding and replenishing of prepaid accounts, customer service associated with prepaid accounts, and supporting the technology needed to manage

¹⁸ See, e.g., Docket No. 23185, *Generic Proceeding to Determine whether Certain Amendments to the Commission's Rules, Regulations and Guidelines Governing the Provision of Customer-Owned Coin-Operated Telephone Service in Correctional Facilities Should Be Adopted*, Order (Dec. 6, 1993) ("The Commission has previously recognized that the provision of payphone service in the prison/inmate environment is fundamentally different from payphone service provided outside of confinement institutions."); see also *FCC ICS Order and FNPRM* ¶ 2 (noting "the security needs of correctional facilities" and that ICS includes "important security features, such as call recording and monitoring, that advance the safety and security of the general public, inmates, their loved ones, and correctional facility employees"); *id.* ¶ 8 (recognizing "the legitimate and unique requirements for security and public safety in the provision of inmate phone services"); *id.* ¶ 58 ("We also are cognizant of the critical security needs of correctional facilities.").

¹⁹ *Further Order* at 49-50.

²⁰ Telephone Rule 15.1(C)(6), (7); 47 C.F.R. § 64.710.

prepaid accounts. Debit calling also can increase some administrative costs depending on the characteristics of the inmate account. For example, a system that uses PINs (personal identification numbers) tied to inmate IDs has to be managed, and the management costs are often higher in facilities with high turnover of the inmate population. Debit calling also requires more detailed administration of an inmate's "allowed calls" list to validate each call being made via the debit account and ensure that calls are being made only to those persons the inmate is permitted to contact. Depending on the facility, the process of administering inmate "allowed calls" lists is done manually through human intervention or via automated software, both of which impose additional costs.²¹ Accordingly, there is no merit to the *Further Order's* determination that prepaid/debit calls should be priced lower than automated collect calls.

The proposed interim ICS rate caps also should not be deemed to include cost recovery for biometric services.²² As the Commission has recognized, it is best to "allow for separation of the security biometrics price component from intrastate ICS rates."²³ GTL agrees that security biometrics should be a separate component from intrastate ICS rates.²⁴ The charge for biometrics should be applied only when the service is requested by the correctional facility as reflected in GTL's tariff.²⁵ The Commission should allow ICS providers to apply their existing tariffed biometric service charges in addition to per-minute usage rates only if voice biometrics is provided to a facility. Allowing ICS providers to impose an additional charge for biometrics when the service is requested by a correctional facility ensures correctional facilities continue to

²¹ For example, the Alabama Department of Corrections designates a "Telephone Monitor" to input data, monitor an inmate's authorized telephone list, and oversee calls made by inmates. *See* Alabama Department of Corrections, Administrative Regulation No. 431, Inmate Telephone System (Oct. 31, 2005), *available at* <http://www.doc.alabama.gov/docs/AdminRegs/AR431.pdf>.

²² *Further Order* at 50.

²³ *Further Order* at 48.

²⁴ *Further Order* at 48.

²⁵ *Further Order* at 47; Global Tel*Link Corporation, Alabama Tariff No. 2, § 4.2.2.

receive the security services they rely upon and ICS providers continue to recover their costs for providing such services.

Finally, any changes to the existing rate caps in Alabama must be implemented with “regard to existing agreements established prior to the Commission’s Order in this proceeding.”²⁶ When the Commission amended its ICS rate caps in 2009, it allowed ICS providers “to grandfather existing contracts through the scheduled contract expiration” in light “of the contractual nature between [ICS] providers and inmate facilities.”²⁷ Any new changes to ICS rates should be implemented in the same way. The services chosen by prison administrators and other local officials, and their budgetary decisions, are reflected in the contracts negotiated by and between ICS providers and correctional facilities. ICS pricing, to a large extent, is determined based on the terms of the individual case basis services required by each correctional facility and the costs of providing the requested services to the specific facility. Any Commission action with respect to ICS rates will affect every contract between GTL and its correctional facility customers in Alabama regardless of whether the Commission intends to interfere with these individual customer arrangements or not. As such, ICS providers and correctional facilities require sufficient time to adjust their existing contractual arrangements that have been tailored to their individual business needs to renegotiate (or terminate) their ICS contracts or to address their obligations under state law requiring the payment of commissions.

²⁶ Docket No. 15957, *Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service*, Order, 2 (Mar. 3, 2009) (“2009 ICS Order”).

²⁷ 2009 ICS Order at 2.

Commission Jurisdiction over Fees

The vast majority of the fees at issue in this proceeding can be characterized as fees for billing and collection service.²⁸ Billing and collection services are not subject to regulation in Alabama or at the federal level. In 2000, the Supreme Court of Alabama found that a company “that merely provides billing and collections services” is not a utility under Alabama statutes and is not within the Commission’s jurisdiction.²⁹ The FCC also has determined that billing and collection service is a “financial and administrative service” that is not subject to regulation by the FCC because it is not a “communication service.”³⁰ Accordingly, the Commission has no authority to assert jurisdiction over fees relating to billing and collection services.

“Authorized” Fees

The *Further Order* identifies certain fees that are authorized to be charged by ICS providers, but places arbitrary caps on those fees.³¹ As explained above, the Commission has no jurisdiction to regulate the fees that ICS providers apply in connection with billing and collection, and the Commission’s proposal to cap fees should be rejected for that reason alone. Moreover, the maximum fee amounts proposed by the Commission do not reflect the current marketplace or ICS providers’ costs to provide customers with these ancillary product offerings. In the *Order*, the Commission correctly recognized that ancillary products offered by ICS providers “result in additional provider costs,” and that ICS providers “should be provided an

²⁸ See, e.g., *Order* at 8 (“To ensure the completion of collect calls by local wireline and wireless providers that refuse to accept and bill for collect ICS calls, ICS providers rely on prepaid calling options and/or third-party billing and collection services. Called parties may be charged a bill statement fee when third-party billing and collection services are used by their ICS providers.”).

²⁹ See *Long Distance Telephone Litigation*, 783 So. 2d 800, 803 (Ala. 2000).

³⁰ *Detariffing of Billing and Collection Services*, 102 F.C.C. 2d 1150 (1986); *Capital Network Sys., Inc. v. FCC*, 3 F.3d 1526, 1528 (D.C. Cir. 1993).

³¹ *Further Order* at 74-88.

opportunity to recover” these “legitimate business costs.”³² The proposed maximum fee caps, however, fail to provide recovery of these recognized costs.

For example, the Commission proposes an arbitrary limit on the amount that may be charged to a customer for the convenience of paying for a call by using a debit or credit card.³³ The Commission relies on information submitted by Pay Tel in the FCC’s ICS proceeding to establish its maximum fee amounts, and posits that larger ICS providers can negotiate even lower credit card transaction fees.³⁴ Credit card transaction fees are set by the credit card company, not ICS providers, and there is no support in the record for the Commission’s conclusion that larger ICS providers have more bargaining power than Pay Tel or smaller ICS providers with respect to such transaction fees. The concept of paying more for a service or product for the convenience of using a credit/debit card is not unique to ICS.³⁵

Similarly, the Commission imposes unreasonable restrictions on the amounts that may be charged to a customer for using payment transfer services.³⁶ ICS providers cannot control the fees established by third-parties, such as Western Union or MoneyGram. While the Commission concludes that ICS providers can enter into payment transfer service arrangements for a fee that does not exceed \$5.95 per payment,³⁷ there is no evidence that such arrangements are available

³² *Order* at 10.

³³ *Further Order* at 81.

³⁴ *Further Order* at 79, 80.

³⁵ *See, e.g.,* Dave Lieber, *Watchdog: Are discounted cash prices for gas a violation of Texas law?*, THE DALLAS MORNING NEWS (Jan. 16, 2014), <http://www.dallasnews.com/investigations/watchdog/20140116-watchdog-do-cash-discounts-for-gas-purchases-violate-state-law.ece>; *Paying for gas with a card could cost you \$1 more per gallon as at some stations*, WESH (June 19, 2014), <http://www.wesh.com/news/paying-for-gas-with-a-card-could-cost-you-1-extra-at-some-orlando-stations/26554746#!bxYtpk>. Consumers can even pay their taxes and college tuition using credit cards on online systems that charge a convenience fee. *See, e.g., Pay your Taxes by Debit or Credit Card*, IRS, <http://www.irs.gov/uac/Pay-Taxes-by-Credit-or-Debit-Card> (last visited Aug. 7, 2014); *Online Bill/Credit Card Convenience Fees FAQ*, Virginia Commonwealth University, <http://www.enrollment.vcu.edu/accounting/tuition-and-fees/faq-convenience-fees/> (last visited Aug. 7, 2014).

³⁶ *Further Order* at 86.

³⁷ *Further Order* at 86.

to ICS providers in the marketplace. Further, ICS providers' agreements with third-party financial service providers like Western Union and MoneyGram are not subject to regulation.³⁸ The Commission claims it does not seek "to impose regulatory oversight over third-party payment services for which it has no jurisdiction,"³⁹ but its proposals do just that.

"Unauthorized" Fees

The *Further Order* determines that certain types of fees are not permissible.⁴⁰ One of the "unauthorized" fees is an interstate cost recovery fee. The Commission has no jurisdiction to restrict ICS providers from imposing fees related to interstate ICS. The FCC specifically permits carriers "to recover legitimate administrative and other costs," and to "recover those legitimate administrative and other related costs through rates or other line items."⁴¹ There is no prohibition against the recovery of interstate costs through the use of interstate fees or other line item charges.⁴² The FCC has determined that the "costs associated with the business of providing telecommunications service . . . may be recovered through rates or other line item charges,"⁴³ and the decision "whether to include these charges as part of their rates, or to list the charges in separate line items" is left to carriers.⁴⁴ This well-established FCC precedent applies to ICS providers, which are regulated (and always have been regulated) as interexchange carriers

³⁸ *Further Order* at 86.

³⁹ *Further Order* at 86.

⁴⁰ *Further Order* at 70-74. GTL discusses its biometric security fee above.

⁴¹ *Truth-in-Billing and Billing Format, et al.*, 20 FCC Rcd 6448, ¶ 28 (2005) (subsequent history omitted) ("2005 Truth-in-Billing Order").

⁴² *2005 Truth-in-Billing Order* ¶ 26 ("[W]e have not prohibited carriers from using line items. . . . We emphasize that it is permissible for carriers to recover these costs so long as they do so in a manner that complies with [Commission] rules.").

⁴³ *Federal-State Joint Board on Universal Service, et al.*, 17 FCC Rcd 24952, ¶¶ 54, 55 (2002) ("2002 USF Contribution Order"); see also *2005 Truth-in-Billing Order* ¶ 28.

⁴⁴ *Truth-in-Billing and Billing Format*, 14 FCC Rcd 7492, ¶ 55 (1999) ("1999 Truth-in-Billing Order").

at the federal level.⁴⁵ There is no support for the Commission’s proposal to prohibit ICS providers from imposing interstate cost recovery fees on their Alabama customers making interstate ICS calls.⁴⁶

Another Commission identified “unauthorized” fee is a refund fee, which covers administrative costs associated with issuing customer refunds.⁴⁷ The Commission reasons that ICS providers “avoid uncollectable expenses” with debit and prepaid service, and thus no refund fee should apply.⁴⁸ As discussed above, however, there are significant costs associated with establishing, maintaining, and closing debit and prepaid accounts. Such costs are not

⁴⁵ Cf. *Further Order* at 70 (claiming that the “FCC only began regulating ICS provider rates in 2013”). ICS providers, like all other non-dominant interexchange carriers, have always been subject to the regulation of the FCC. Prior to the *FCC ICS Order and FNPRM*, interstate ICS services were treated as competitive, non-dominant services subject to less stringent regulatory burdens than dominant carriers. See *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 85 FCC 2d 1 (1980) (“*Competitive Carrier Order*”). The decision to eliminate certain regulatory oversight of non-dominant carriers was based on the FCC’s “conclusion that marketplace forces will operate to ensure that the rates and other tariff provisions of non-dominant carriers comply with the objectives of Sections 201 and 202 of the [federal] Act.” *Id.* ¶ 48. Based on these findings, the Commission ruled the “tariffs of non-dominant carriers to be presumptively lawful” and eliminated the requirement that non-dominant carriers “support their tariff proposals with extensive cost and other economic data.” *Id.* ¶¶ 96, 97. Later, the FCC further deregulated non-dominant carriers, finding that tariff filings from non-dominant carriers were no longer necessary to ensure that those carriers’ charges, practices, or classifications are just and reasonable, or for the protection of consumers. See *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as Amended*, 11 FCC Rcd 20730, ¶¶ 21, 36 (1996) (subsequent history omitted). The FCC required non-dominant carriers to detariff their rates, terms, and conditions for services and instead make them available in a public location and on their website. See 47 C.F.R. § 42.10. Providers of interstate inmate operator services have been subject to this same regulatory regime. In light of the informational tariff requirements and the oral disclosure rules imposed on inmate operator service providers, the FCC declined to impose “price benchmarks or rate caps” on inmate calling services as requested by some parties “because rates must be filed with the [FCC] and must conform to the just and reasonable requirements of Section 201 of the Act . . . it is more efficient and less intrusive to proceed on a case-by-case basis, should the [disclosure] rules . . . not lead to reasonable rates for calls from inmate phones.” *Billed Party Preference for InterLATA 0+ Calls*, 13 FCC Rcd 6122, ¶ 59 (1998).

⁴⁶ The Commission says ICS providers can impose an interstate regulatory recovery fee if the fee is listed in the ICS provider’s “FCC approved interstate tariff.” *Further Order* at 71. As explained above, interstate carriers no longer file tariffs with the FCC and instead post their interstate rates, terms, and conditions on their website. GTL’s Federal Regulatory Cost Recovery Fee is set forth in its web-posted Interstate/International Rates, Terms and Conditions, which are available at: <http://www.tariffs.net/tariffs/10094bvbq5/tempFCC%20RTC%2006%2019%2014%20GLOBAL%20CUR02.pdf>.

⁴⁷ *Further Order* at 73.

⁴⁸ *Order* at 19.

“administrative costs” that are part of an ICS provider’s “normal business overhead.”⁴⁹ Accordingly, ICS providers should be permitted to impose a refund or account closing fee on their ICS customers.

Single Payment Services

The Commission uses the term “single payment services” to refer to those services that “allow for calls to parties that have not established prepaid ICS accounts and whose providers will not bill collect ICS calls.”⁵⁰ An inmate’s friends and family may use such a service to bill an inmate-initiated call directly to a debit/credit card or to have a collect call delivered to a wireless number with the charge added to the associated wireless bill for that number. These services are offered as a “convenience” to a customer who may not want to establish a prepaid ICS account, or may have no other way to accept a collect call from an inmate. ICS providers do not offer consumers the ability to use these services in order to “circumvent” ICS rate caps.⁵¹ Rather, these services give the consumer additional options for receiving and paying for inmate-initiated calls. The concept of paying more for a service or product for the convenience of using a preferred billing method is not unique to ICS.⁵²

⁴⁹ *Order* at 19; *Further Order* at 73.

⁵⁰ *Further Order* at 4.

⁵¹ *Further Order* at 58.

⁵² *See, e.g.,* Dave Lieber, *Watchdog: Are discounted cash prices for gas a violation of Texas law?*, THE DALLAS MORNING NEWS (Jan. 16, 2014), <http://www.dallasnews.com/investigations/watchdog/20140116-watchdog-do-cash-discounts-for-gas-purchases-violate-state-law.ece>; *Paying for gas with a card could cost you \$1 more per gallon as at some stations*, WESH (June 19, 2014), <http://www.wesh.com/news/paying-for-gas-with-a-card-could-cost-you-1-extra-at-some-orlando-stations/26554746#!bxYtpk>. Consumers can even pay their taxes and college tuition using credit cards on online systems that charge a convenience fee. *See, e.g., Pay your Taxes by Debit or Credit Card*, IRS, <http://www.irs.gov/uac/Pay-Taxes-by-Credit-or-Debit-Card> (last visited Aug. 7, 2014); *Online Bill/Credit Card Convenience Fees FAQ*, Virginia Commonwealth University, <http://www.enrollment.vcu.edu/accounting/tuition-and-fees/faq-convenience-fees/> (last visited Aug. 7, 2014).

Many of these charges imposed for single payment services are not established or billed by the ICS provider.⁵³ They are established and imposed by wireless providers or payment processing companies over which the Commission does not have jurisdiction.⁵⁴ Single payment services also are not required to be tariffed. ICS providers are subject to the tariffing requirements of the Alabama Code, which requires a utility to file a tariff “[w]henver a utility desires to put in operation a new rate or service regulation.”⁵⁵ The rates and service regulations for single payment services are not established by ICS providers; the wireless carrier or the entity providing the third-party payment processing service dictates the “rate or service regulation” for single payment services. The ICS provider does not control the “rates and service regulations” for single payment services, and therefore has no responsibility to place those services or rates in its tariffs.

Finally, the Commission cannot dictate the content of the script used to explain single payment services to customers or how the charges for single payment services are reflected on a customer’s mobile phone bills and/or credit card statements.⁵⁶ ICS providers are not responsible for the scripts used by third-party payment processing services, and have no say in how the charge appears on a consumer’s mobile phone bill or credit card statement. Those matters are determined based on the contractual agreement between the third-party payment processing service and the wireless carrier or credit card company. GTL agrees to inform its customers about all of the payment options available to the customer, including those that do not include an

⁵³ The Commission’s current rules govern only those charges “billed by the IPS provider for any call-related or non-call related charges.” *See* Telephone Rule 15.1(B)(4).

⁵⁴ Ala. Code § 40-21-120(2) (stating that wireless services and providers “are not included in and are excluded from the coverage and application of, and are not subject to, the provisions of Title 37” of the Alabama Code).

⁵⁵ Ala. Code § 37-1-81; *see also Order* at 27 (“Section 37-1-81 in the Code of Alabama is applicable to ICS.”).

⁵⁶ *Further Order* at 61-62.

additional charge,⁵⁷ but GTL cannot control the actions of third-party payment processing providers.

Treatment of Refunds

GTL's approved ICS tariff⁵⁸ states that unused funds in an inmate debit account are refundable upon request by the inmate, that the balance of available usage expires three months from the date of last activity, and that no refunds of unused balances are available after the expiration date.⁵⁹ Similarly, GTL's approved ICS tariff states that Advance Pay accounts (*i.e.*, prepaid accounts established by an inmate's friends and family) may be closed by the customer at any time, that a refund may be issued when requested by the customer, and that the account is automatically dissolved after three months of no activity (no calls placed, no account replenishment, no customer service inquiries).⁶⁰ ICS providers should not be required to automatically refund "unused debit, prepaid inmate phone card, and prepaid collect funds" as suggested in the *Further Order*.⁶¹ Refunds should be given when requested by a customer and consistent with the existing process outlined in GTL's approved Alabama tariff.

Under the Uniform Disposition of Unclaimed Property Act of 2004, a deposit or refund is considered "unclaimed" one year after the deposit or refund becomes payable.⁶² With respect to ICS, the Commission has interpreted this to mean a refund or deposit becomes "unclaimed" one year following the last customer payment for ICS in the account or one year after the customer's

⁵⁷ *Further Order* at 62.

⁵⁸ Docket 20927, *Global Tel*Link Corporation*, Order of Approval (Feb. 1, 2011) (approving the tariff filed by GTL on October 9, 2009).

⁵⁹ Global Tel*Link Corporation, Alabama Tariff No. 2, § 3.5.2.

⁶⁰ Global Tel*Link Corporation, Alabama Tariff No. 2, § 3.6.

⁶¹ *Further Order* at 90-91.

⁶² Ala. Code 35-12-72(a)(15).

last usage of funds in the account for ICS, whichever comes later.⁶³ Under the terms of GTL’s approved tariff, the requirements of the Alabama Uniform Disposition of Property Act do not apply to GTL’s inmate debit and prepaid ICS accounts as there will be no “unclaimed” refund one year following the last customer payment or usage.

Inmate Calling Cards

GTL provides prepaid calling cards to inmates in Alabama in limited circumstances. GTL believes the Commission’s treatment of inmate calling cards should be consistent with the Commission’s treatment of prepaid calling cards available to the non-incarcerated public.⁶⁴ The Commission’s proposed rules contain detailed provisions governing prepaid debit cards for ICS, including disclosure of rates, refunds, customer service, etc.⁶⁵ The proposed rules exceed the requirements placed on providers of prepaid calling cards to the non-incarcerated public and are unnecessary.

II. COMMISSION JURISDICTION AND VIDEO VISITATION SERVICE

Commission Jurisdiction

In the *Further Order*, the Commission states that the Communications Reform Act (the “Act”) does not alter the Commission’s jurisdiction over ICS providers, including their broadband enabled services.⁶⁶ GTL disagrees. The Act states that nothing in its provisions is intended to alter the Commission’s jurisdiction “except as specifically provided for” in the Act.⁶⁷ While that language may signal the legislature’s intent for ICS to remain within the Commission’s purview, the Act explicitly removes broadband enabled and information services

⁶³ *Order* at 25.

⁶⁴ *Further Order* at 62-66.

⁶⁵ Telephone Rule T-18.1.

⁶⁶ *Further Order* at 11.

⁶⁷ Ala. Code § 37-2A-11(b)(1).

from the Commission’s jurisdiction.⁶⁸ Unlike other provisions in the Act, the statutory restrictions on the Commission’s jurisdiction are not limited to incumbent local exchange carriers, competitive local exchange carriers, or interexchange carriers.⁶⁹ Rather, the legislature intended to remove all Commission oversight of broadband enabled and information services “[n]otwithstanding any provision of law to the contrary.”⁷⁰ This phrase was added to the statute in 2009 and “is the latest expression of the Legislature in this area.”⁷¹ In Alabama, it is a “well-settled principle” that “the last expression of the legislative will is the law in case of conflicting provisions of the statute on the same subject, and the last enacted in point of time prevails.”⁷² Therefore, the Commission has no jurisdiction over “any aspect of broadband service, broadband enabled services, [Voice over Internet Protocol] services, or information services” regardless of the entity providing such services and “[n]otwithstanding any provision of law to the contrary.”⁷³

Video Visitation Service

The *Further Order* defers a decision on issues surrounding video visitation service (“VVS”), but requires ICS providers to submit copies of VVS agreements to the Commission for review.⁷⁴ The Commission seeks to review VVS contracts because it is “concerned” that the contracts may contain provisions limiting face-to-face visitation at correctional facilities or

⁶⁸ Ala. Code § 37-2A-4.

⁶⁹ In 2008, the Commission determined that ICS providers could not avail themselves of the alternative regulation provisions of the Communications Reform Act because ICS providers were not incumbent local exchange carriers, competitive local exchange carriers, or interexchange carriers, and the Act allowed only those types of providers to seek alternative regulation. See Docket No. 30632, *Generic Proceeding to Determine Applicability of the Communications Reform Act of 2005 to Inmate Phone Service*, Order (Mar. 10, 2008).

⁷⁰ Ala. Code § 37-2A-4(a).

⁷¹ *Soles v. State*, 820 So. 2d 163, 165 (Ala. Crim. App. 2001).

⁷² *Ex parte McCormick*, 932 So. 2d 124, 130 (Ala. 2005) (citing *State v. Gaines*, 932 So. 2d 118, 122 (Ala. Crim. App. 2004) (quoting *Middleton v. General Water Works & Elec. Corp.*, 149 So. 351, 352 (Ala. App. 1933))).

⁷³ Ala. Code § 37-2A-4(a).

⁷⁴ *Further Order* at 70. The Commission also correctly defers any other decisions relating to inmate voice mail. See *id.*

imposing certain disciplinary measures in association with VVS.⁷⁵ These contracts are based upon the expressed needs of the correctional facilities.⁷⁶ Correctional facilities have sole discretion to place limitations on face-to-face visitation at the facility or require the inclusion of other provisions in its contracts with a VVS provider.⁷⁷ Correctional facilities are empowered by Alabama law to determine and implement policies aimed at the orderly and proper functioning of their respective correctional facilities.⁷⁸ Correctional facility administrators are given “wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security.”⁷⁹

Regulation of any aspect of VVS also is beyond the Commission’s statutory jurisdiction.⁸⁰ VVS “is transmitted over broadband facilities” and is an “enhanced” service.⁸¹ VVS is not subject to regulation by the Commission.⁸² Accordingly, the Commission should not

⁷⁵ *Further Order* at 69-70.

⁷⁶ *2009 ICS Order* at 5 (“The Commission, however, does not presume upon itself any jurisdiction in the administration of inmate facilities.”).

⁷⁷ *See, e.g., Jones v. N.C. Prisoners’ Labor Union*, 433 U.S. 119, 128 (1977); *Procurier v. Martinez*, 416 U.S. 396, 404-05 (1974); *Cruz v. Beto*, 405 U.S. 319, 321 (1972).

⁷⁸ *See, e.g.,* Ala. Code § 14-1-1.1 (creating the Alabama Department of Corrections and giving it “duties, responsibilities, authority, power, assets, liabilities, property, funds, appropriations, contractual rights and obligations, property rights and personnel”); § 14-6-1 (stating that the “sheriff has the legal custody and charge of the jail in his or her county and all prisoners committed thereto”).

⁷⁹ *Bell v. Wolfish*, 441 U.S. 520, 547 (1979); *see also id.* at 548 (“[J]udicial deference is accorded not merely because the administrator ordinarily will, as a matter of fact in a particular case, have a better grasp of his domain than the reviewing judge, but also because the operation of our correctional facilities is peculiarly the province of the Legislative and Executive Branches of our Government, not the Judicial.”).

⁸⁰ Ala. Code § 37-2A-4(a). In addition, under federal law, video conferencing service has been classified as an advanced communications service and an information service. 47 U.S.C. § 153(1) (including “interoperable video conferencing service” in the definition of “advanced communications services”); *Framework for Broadband Internet Service*, 25 FCC Rcd 7866, ¶ 107 (2010) (“we do not intend to address in this proceeding the classification of information services such as e-mail hosting, web-based content and applications, voicemail, interactive menu services, video conferencing, cloud computing”); *see also* 47 U.S.C. § 153(27) (defining “interoperable video conferencing service” to mean “a service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing”). The FCC has preempted nearly all state regulation of information services. *See, e.g., California v. FCC*, 39 F.3d 919 (9th Cir. 1994).

⁸¹ *Order* at 13.

⁸² Ala. Code § 37-2A-4(a).

require ICS providers to submit VVS contracts for review or to include VVS in ICS provider tariffs, and should take no further action with respect to VVS.

III. CUSTOMER SERVICE ISSUES

In recognition of the comments filed by GTL and other ICS providers, the *Further Order* modifies several of the Commission's earlier proposals addressing customer service issues. GTL provides comments on the following revised proposals for initial inmate calls, toll-free customer service numbers, customer account statements, customer payment limits, and associating multiple telephone numbers with a single prepaid account.

Initial Inmate Calls

GTL agrees that ICS providers should have flexibility to offer initial inmate calls at no charge without the imposition of a minimum requirement for such calls.⁸³ As GTL noted in its December 6 Comments, GTL is not opposed to providing limited free inmate calls in certain situations and when such calls are permitted by a correctional facility.⁸⁴ The Commission's grant of "broad discretion" to ICS providers in this matter will ensure that policy decisions regarding initial inmate phone calls are made by the correctional facility and the ICS provider based on the correctional facility's specific needs and requirements.

Toll-Free Customer Service Numbers

GTL supports the Commission's decision to eliminate the requirement that inmates be provided with toll-free access to an ICS provider's customer service representatives.⁸⁵ This revision is consistent with the Commission's existing rules prohibiting inmates from calling toll-

⁸³ *Further Order* at 25.

⁸⁴ GTL December 6 Comments at 15-16.

⁸⁵ *Further Order* at 25.

free numbers and requiring ICS providers to disallow all calls to toll-free numbers (in addition to other types of prohibited numbers).⁸⁶

The provision of a toll-free number for customer service inquiries by prepaid (friends and family) and direct-billed customers is not an issue.⁸⁷ GTL provides this today. GTL's contact information for its billing and customer service departments is included on customer bills for those customers placing collect call charges on their local exchange carrier bill or for direct billed customers. The toll-free customer service number also is available on GTL's website, and some of GTL's correctional facility customers also put GTL's toll-free number on the correctional facility website to ensure an inmate's friends and family can easily contact GTL.

GTL also complies with the proposed tariff requirement for providing customer service information to debit customers (inmates).⁸⁸ GTL's existing Alabama tariff contains procedures for addressing inmate service and billing related inquiries.⁸⁹ In addition, GTL takes other steps to ensure inmates have access to information regarding GTL's services. For example, GTL makes posters available in correctional facilities, which can be hung in each individual inmate calling location. The poster provides detail on the applicable call rates, instructions on how to place a call, and contact information for lodging complaints and inquiries. This information usually is provided in both English and Spanish. GTL also provides ongoing comprehensive training to correctional facility personnel to ensure they have the knowledge to answer inmate questions in regards to ICS usage, rates, and charges. Correctional facilities also have a direct

⁸⁶ Telephone Rule 15.1(C)(8).

⁸⁷ *Further Order* at 25.

⁸⁸ *Further Order* at 25.

⁸⁹ Global Tel*Link Corporation, Alabama Tariff No. 2, § 2.72 (Disputed Charges).

single point of contact that can address any issues or questions that may arise, which enables correctional personnel and inmates to receive resolution in a timely manner.

Dissemination of Customer Account Statements

In the *Order*, the Commission proposed that ICS customers receive monthly, individualized ICS customer account statements for debit, prepaid, and direct-billed service, with the statement available over the Internet and printable, and paper bills available upon request for prepaid and direct-billed customers.⁹⁰ In the *Further Order*, the Commission modifies that proposal to require ICS providers to give only their prepaid and direct billed customers monthly electronic customer account statements at no charge.⁹¹ GTL has no issue with the Commission's proposal as modified. As GTL explained in its December 6 Comments, GTL's prepaid and direct billed customers can access GTL's website to review their monthly statement, make payments into an account, request a refund, check account balances, and otherwise manage their account with GTL.⁹²

GTL also agrees with the modified proposal with respect to account statements for debit customers (inmates).⁹³ Electronic account statements for debit customers are impractical given that inmates do not have Internet access.⁹⁴ While GTL believes disseminating paper statements to debit customers is unnecessary, decisions regarding the dissemination of paper account statements to inmates should be left to the discretion of the correctional facility.⁹⁵ There is no reason for the Commission to adopt a requirement that ICS contracts contain provisions

⁹⁰ *Order* at 20.

⁹¹ *Further Order* at 28.

⁹² GTL December 6 Comments at 14.

⁹³ *Further Order* at 28.

⁹⁴ *Further Order* at 28; *see also* GTL December 6 Comments at 14.

⁹⁵ *Further Order* at 28.

regarding the potential options for dissemination of paper account statements to inmates.⁹⁶ The contracting parties can best decide how to memorialize the process to the extent a correctional facility chooses to disseminate paper account statements to inmates.

Content of Customer Account Statements

The *Further Order* establishes minimum informational requirements for customer account statements, with different information required in statements for prepaid and direct billed customers and in statements for debit customers.⁹⁷ GTL offers the following comments on the information the Commission proposes to be included on customer account statements. First, it is not standard practice for an ICS provider to list the call rate in the call detail of its customer account statements.⁹⁸ This is not a standard field in GTL's billing system, and GTL recommends that the Commission eliminate that requirement. The customer should be able to determine the applicable call rate by dividing the call duration with the total call charge. Second, it is not standard practice for telecommunications company bills to list the payment method for a particular payment.⁹⁹ If a customer has a specific question about a payment method used for a payment reflected its account statement, the customer can contact GTL customer service to discuss that issue. GTL therefore recommends the Commission eliminate this requirement.

Customer Payment Limits

The *Further Order* proposes to prohibit ICS providers from establishing limits on customer payments for cash, money order, check, and online banking deposits.¹⁰⁰ The Commission, however, will allow ICS providers to establish a maximum limit of \$100 per

⁹⁶ *Further Order* at 28.

⁹⁷ *Further Order* at 29-30.

⁹⁸ *Further Order* at 29.

⁹⁹ *Further Order* at 29.

¹⁰⁰ *Further Order* at 36.

payment for debit/credit card transactions and a limit of \$300 for total debit/credit card payments during the most recent 30 day period.¹⁰¹ Finally, the *Further Order* would prohibit ICS providers from establishing any funding minimums for debit or prepaid ICS accounts.¹⁰²

GTL disagrees with the maximum funding limits proposed by the Commission when, at the same time, the Commission is proposing to cap the amount of transaction and payment processing fees an ICS provider may impose for credit card transactions. ICS providers are subject to more fraud risk and expense when customers can deposit larger amounts. Credit card transaction fees vary based on the deposit amount - the larger the deposit from the customer, the larger the credit card transaction fee imposed on GTL. GTL must be able to recoup the costs that will result from allowing customers to deposit larger amounts using their credit/debit card. Accordingly, the Commission needs to either lower its payment maximums or increase the allowed credit card transaction fees to accommodate for these larger deposit amounts. This is especially true for canteen/trust fund deposits.

Limits on Telephone Numbers Associated with Prepaid ICS Accounts

The *Further Order* requires ICS providers to include, at no additional charge, up to 5 wireline or wireless telephone numbers on the call list for a prepaid ICS account subject to the prepaid subscriber's request that the numbers be associated with their prepaid account.¹⁰³ The Commission correctly recognizes that such numbers may be associated with the account only if the correctional facility has no objections to the inmate calling those telephone numbers.¹⁰⁴ The Commission proposes to prohibit any additional charges or fees based on the underlying

¹⁰¹ *Further Order* at 36.

¹⁰² *Further Order* at 36.

¹⁰³ *Further Order* at 37.

¹⁰⁴ *Further Order* at 37.

telecommunications technology associated with any telephone number for prepaid accounts, such as a wireless administration fee.¹⁰⁵ Associating multiple telephone numbers with one prepaid account can be done, but requires certain technical and operational changes to ensure the telephone numbers are not used to circumvent the safety and security requirements of a correctional facility. GTL therefore recommends that the Commission allow for a longer implementation period for this requirement so that ICS providers can modify their inmate calling systems as may be necessary. In addition, GTL recommends that ICS providers be permitted to impose a fee for giving customers the convenience of associating more than one telephone number with a single prepaid account.

IV. TARIFFS, RECORD RETENTION, REPORTING, AND COST STUDIES

GTL provides its comments on the Commission's tariffing, record retention, and reporting requirements, and the Commission's proposal to conduct cost studies.

Tariffs

The *Further Order* requires ICS providers to identify all services (along with associated rates and fees) provided at or from correctional facilities in Alabama including, but not limited to, single payment services, prepaid inmate phone cards, and VVS.¹⁰⁶ As discussed above, single payment services and VVS are not telecommunications services subject to regulation and tariffing requirements under Alabama law.

The *Further Order* also requires ICS providers to file an abbreviated version of the new Commission-prepared template ICS tariff within 10 days following implementation of the new

¹⁰⁵ *Further Order* at 37. The Commission, however, will entertain future requests for such fees, but the request must be accompanied by a detailed study substantiating the additional costs for including wireless numbers on the authorized call list for prepaid ICS accounts.

¹⁰⁶ *Further Order* at 98.

requirements.¹⁰⁷ Ten days is not an adequate amount of time for ICS providers to prepare and file new tariffs based on the Commission-prepared template. GTL therefore recommends that the Commission extend the time for filing the abbreviated version of the new Commission-prepared template ICS tariff to 30 days following implementation of the new requirements, with final tariffs due within 60 days following implementation.

Record Retention and Reporting Requirements

The *Further Order* proposes new record retention requirements above and beyond those originally proposed in the *Order*.¹⁰⁸ While GTL offered tentative support to the Commission's original recordkeeping proposals,¹⁰⁹ the newly proposed requirements should be modified to reflect the way in which ICS providers operate. For example, GTL does not maintain its records on a correctional facility-by-correctional facility basis as would be required under the new record retention requirements.¹¹⁰ Further, the proposal would require data retention "[o]n a monthly basis, beginning with January 2013."¹¹¹ Implementation of this proposal would require ICS providers to re-calculate and re-format their existing data (assuming such data exists) in the newly prescribed format for record retention. The burden to redo nearly two years of records far exceeds any potential benefit and none has been demonstrated to support this proposed requirement. Finally, any proposed requirements pertaining to the retention of interstate call information interferes with the primary jurisdiction of the FCC. Some of these issues could be remedied by: having the new record retention requirements take effect 90 days after a final order

¹⁰⁷ *Further Order* at 98.

¹⁰⁸ *Compare Further Order* at 99-100 to *Order* at 22, 26.

¹⁰⁹ GTL December 6 Comments at 14; *see also Further Order* at 99.

¹¹⁰ *Further Order* at 99 (requiring retention of call data "segregated into collect, prepaid collect, prepaid debit, prepaid inmate phone card, and direct-billed service at each Alabama confinement facility served").

¹¹¹ *Further Order* at 99.

is issued in this proceeding; applying the new record retention requirements on a prospective basis only; and removing any reference to interstate call information.

It also is important to note that any new record retention and reporting requirements come at a cost to ICS providers, who are facing significant rate reductions as a result of the other actions proposed in the *Further Order*. If the Commission's record retention and reporting proposals are adopted, the Commission should allow ICS providers to apply a regulatory cost recovery fee to offset the added expense. The additional recordkeeping and reporting proposed in the *Further Order* will consume a significant number of man hours and technology upgrades creating additional costs for ICS providers. ICS providers should be permitted to recover these legitimate business costs.

Cost Studies

The *Further Order* indicates the Commission's desire to conduct cost studies to "analyze costs supporting future intrastate ICS rates, provider ancillary charges, and confinement facility cost reimbursement."¹¹² GTL urges the Commission to reconsider the need and value of collecting individual company cost data. Alabama and federal law demonstrate that cost data is not necessary to establish a rate cap regime for ICS rates.

The Commission adopted the current ICS rate caps in 2009 based on proposals from Staff, which were the same rates previously approved for AT&T's ICS service.¹¹³ There was no need for the Commission to conduct cost studies or review individual company cost data in establishing the current ICS rates, and no such information is necessary now.

¹¹² *Further Order* at 104.

¹¹³ Docket No. 15957, *Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service*, Order (June 10, 2008) (seeking comment on Staff's proposed ICS price caps); *see also* Docket No. 15957, Comments of Global Tel*Link Corporation (filed July 30, 2008).

The Commission’s approach in 2009 is consistent with FCC orders finding that individual company cost data is not necessary to establish a rate cap regime. In the 1980s, the FCC determined that its existing policy requiring non-dominant carriers to support their proposed rates “with extensive cost and other economic data” was no longer necessary.¹¹⁴ The FCC found that, “[b]ecause the cost of developing this information is relatively great for a non-dominant carrier, the rates paid by its ultimate users are likely to be higher than if all competitive carriers were free from this unnecessary regulatory burden.”¹¹⁵ The cost justification requirement “serves no useful purpose commensurate with the costs of compliance” and “nullifies many consumer benefits that competition produces.”¹¹⁶ The FCC also abandoned the use of rate-of-return regulation to set carrier rates in the early 1990s¹¹⁷ because it produces “high administrative costs,” fosters “cross-subsidization,” creates incentives for misallocation of costs, and supplies “insufficient incentives to encourage innovation.”¹¹⁸ Administering rate-of-return regulation “is a difficult and complex process, even when done correctly and well.”¹¹⁹ As the D.C. Circuit has explained:

Under a price cap scheme, the regulator sets a maximum price, and the firm selects rates at or below the cap. Because cost savings do not trigger reductions in the cap, the firm has a powerful profit incentive to reduce costs. Nor is there any reward for shifting costs from unregulated activities into regulated ones, for the higher costs will not produce higher legal ceiling prices. Finally, the regulator has less need to collect detailed cost data from the

¹¹⁴ *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 85 FCC 2d 1, ¶ 97 (1980) (“*Competitive Carrier Order*”).

¹¹⁵ *Competitive Carrier Order* ¶ 99.

¹¹⁶ *Competitive Carrier Order* ¶¶ 6, 99.

¹¹⁷ Under rate-of-return regulation, “carriers are allowed to set their rates based on the costs - investment and expense - of providing a service.” *Policy and Rules Concerning Rates for Dominant Carriers*, 5 FCC Rcd 6786, ¶ 22 (1990).

¹¹⁸ *Policy and Rules Concerning Rates for Dominant Carriers*, 4 FCC Rcd 2873, ¶ 100 (1989) (“*1989 Order*”).

¹¹⁹ *1989 Order* ¶ 31.

regulated firms or to devise formulae for allocating the costs among the firm's services.¹²⁰

The Commission should therefore eliminate the requirement that cost studies be conducted or that individual ICS providers submit cost data. Such information is not necessary to establish permanent ICS rate caps.

CONCLUSION

For the foregoing reasons, the Commission should modify the proposals set forth in the *Further Order* as set forth herein.

Respectfully submitted,

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¹²⁰ *Nat'l Rural Telecom Ass'n v. FCC*, 988 F.2d 174, 178 (D.C. Cir. 1993).

CERTIFICATE OF SERVICE

I, Angela F. Collins, certify that on this 11th day of August, 2014 I served a copy of the foregoing Comments of Global Tel*Link Corporation on Further Order Adopting Revised Inmate Phone Rules on the following parties via the service method indicated:

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