

November 23, 2020

Federal Communications Commission
45 L Street, NE
Washington, DC 20554

Re: WC Docket No. 12-375

Dear Chairman Pai, Commissioners O’Rielly, Carr, Rosenworcel and Starks:

As public interest, civil rights and faith organizations, we write to urge the Federal Communications Commission to complete its new rulemaking docket and adopt final rules by April 30, 2021 to reduce the cost of calling for incarcerated people and their families to the lowest possible rate—as low as 5 cents per minute—and to remedy the long-unaddressed needs of incarcerated people with communications disabilities.

The cost of communicating with incarcerated loved ones is overwhelming and unjust. According to the Ella Baker Center’s *Who Pays?* report, one in three families with an incarcerated loved one goes into debt trying to maintain contact while enriching predatory correctional telecom corporations.¹ The report explains that women bear 87 percent of the burden of the costs of calls and visits with incarcerated loved ones, and more often it’s women of color. Moreover, open communication with an incarcerated parent is critical to decreasing the trauma suffered by the 1 in 29 children whose parents have been incarcerated in the U.S.

Ms. Lillian Williams, prison phone advocate and lifeline subscriber, described the toll these excessive rates took on her family earlier this year sharing:

I have to stay connected to my son. Once, I had to take out a payday loan just to make sure my phone and internet was on. Just to make sure my son could call me. I didn’t want to, I don’t like payday loans, nobody does, but I did what I had to do. Sometimes I don’t even think about it. I gotta pay my light bill, and just the same I gotta pay to stay connected to my son. I can’t hug him and can’t touch him, so I gotta keep connected however I can.

Unfortunately, Ms. Williams’ story is not unique and is representative of hundreds of thousands of families seeking relief from the burden of these often exploitative rates.

We support the lowest possible rates for families, taking into account not only the Commission’s data but other data sources and industry trends. As explained by Worth Rises, the federal prison system and 43 state prison systems already have rates below

the Commission's proposed rates and these prisons make up for 88% of the prison population.² According to Prison Legal News' data, states like Maryland, West Virginia and Rhode Island charge only around 3 cents per minute for in-state calls,³ and as of 2018, Prison Policy Initiative reports Illinois and New Hampshire charge 14 and 20 cents, respectively, for a *15-minute* call.⁴ A few jurisdictions are now offering free calls by absorbing the costs of calling in the same way facilities absorb the cost of other utilities like water or heat.⁵ Lower rates in the marketplace will encourage other jurisdictions to take on these costs. At a minimum, we support an immediate reduction to the rates described by the Martha Wright petitioners, at 12 and 14 cents per minute for prison and jails.⁶ We support the FCC's proposal to adopt caps on international rates, which is particularly important for immigrant detainees who are held without bail indefinitely. Addressing international rates is crucial for people whose support systems may be abroad and are facing particularly prolonged and uncertain detention.⁷ We further support on-going data collecting and regular Commission review of rates to ensure rates continue to decline; lengthy Commission inaction in the face of unjust and unreasonable rates is a Communications Act violation.⁸

The Commission should not incorporate the cost of security and surveillance in rates. As Prison Policy Initiative explains, almost half of the expense of incarceration is personnel:⁹ families of incarcerated people should not pay for personnel to staff prisons. The economic burden on already low-income people is intense and emulates the long-outlawed debtors prisons and the unjust imposition of fees criticized by the Department of Justice in its investigation of Ferguson, Missouri after the death of Michael Brown.¹⁰ Draining overpoliced communities of their hard-earned financial resources will only further harm and endanger these communities.

The Commission also must act immediately on behalf of imprisoned people who are deaf or experience other communications disabilities. These individuals are often entirely cut off from communication with their loved ones, legal counsel, prison rape hotlines and more because incarcerating institutions and calling service providers have refused for decades to provide accessible telecommunications. The Commission must act on its obligations under the Americans with Disabilities Act to provide functionally equivalent communications access for incarcerated people by requiring access to modern relay services and equipment, including VRS and videophones. The Commission's continued failure to take action on this issue despite a strong record before the Commission rivals the disgraceful delay in addressing the Martha Wright's original phone justice petition.¹¹ The Commission should heed the comments from several previous dockets submitted by Helping Educate to Advance the Rights of the Deaf (HEARD), TDI et al., and other disabilities advocates.¹²

Finally, the Commission should issue a formal finding, based on Commission staff analysis, that the current state regulatory system is inadequate to protect the nation's consumers. For this reason, the Commission should recommend a change to existing federal law to give the Commission authority over intrastate rates. As Chairman Pai explained, Commission staff found that almost 80 percent of calls to incarcerated people are outside of the FCC's jurisdiction and that they are "egregiously high."¹³ FCC staff identified instances in which a 15-minute intrastate call costs as much as \$24.80. Unjust and unreasonable rates must end.

If you have further questions about this letter, please contact Cheryl A. Leanza, United Church of Christ, OC Inc. at cleanza@alhmail.com or Myaisha Hayes, Media Justice at myaisha@mediajustice.org.

Sincerely,

MediaJustice
United Church of Christ, OC Inc.
Alliance of Baptists
American Friends Service Committee
Benton Institute for Broadband & Society
Bristol County for Correctional Justice - Bristol County, Massachusetts
Center for Responsible Lending
Chicago Community Bond Fund - Illinois
Church of Scientology National Affairs Office
Church World Service
Coalition for Social Justice - Southeastern Massachusetts
Common Cause
Congregation of Our Lady of Charity of the Good Shepherd, U.S Provinces
Demand Progress Education Fund
Dignity & Power NOW - Los Angeles and California Statewide
Electronic Frontier Foundation
Ella Baker Center for Human Rights - California
Fight for the Future
Friends Committee on Legislation of California
FWD.us
Generation Justice - New Mexico
Health in Justice Action Lab, Northeastern University
Just Future Project
Louisville Family Justice Advocates - Louisville Metro Area/Jefferson County, Kentucky
Massachusetts Immigrant and Refugee Advocacy Coalition - Massachusetts and New Hampshire

Media Alliance - San Francisco and Bay Area
National Advocacy Center of the Sisters of the Good Shepherd
National Alliance on Mental Illness
National Consumer Law Center (on behalf of its low-income clients)
National Hispanic Media Coalition
NETWORK Lobby for Catholic Social Justice
New America's Open Technology Institute
Open Access Connections - Minnesota
OVEC-Ohio Valley Environmental Coalition - West Virginia
Presbyterian Church (USA)
Public Knowledge
SJSU Record Clearance Project - California
SouthWest Organizing Project - New Mexico
T'ruah: The Rabbinic Call for Human Rights
The Episcopal Church
The United Methodist Church - General Board of Church and Society
Union for Reform Judaism
United We Dream
UST Law Center on Race, Leadership and Social Justice
Voqal
Washington Association of Criminal Defense Lawyers - Washington
Washington Defender Association - Washington
Working Narratives
Worth Rises

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1. Ella Baker Center for Human Rights, Forward Together, Research Action Design, *Who Pays? The True Cost of Incarceration on Families* (September, 2015), <http://whopaysreport.org/wp-content/uploads/2015/09/Who-Pays-FINAL.pdf>.
 2. Worth Rises Comments, Docket No. 12-375 (Nov. 23, 2020).
 3. Prison Phone Justice, National In-State Collect Calling Rates, <https://www.prisonphonejustice.org/state/MD/>, <https://www.prisonphonejustice.org/state/WV/>, <https://www.prisonphonejustice.org/state/RI/>.
 4. PPI, Historical state prison phone rates, 2008-2019, https://www.prisonpolicy.org/phones/appendix_table_4.html
 5. Lauren Johnson, “New York is the first major city to allow free calls from jail,” CNN (May 1, 2019), <https://www.cnn.com/2019/05/01/us/free-calls-from-jail-nyc-trnd/index.html>.
 6. Comments of Martha Wright et al., Docket No. 12-375 (Nov. 23, 2020).
 7. Second Further Notice of Proposed Rulemaking Comments of New Jersey Advocates for Immigrant Detainees and NYU Immigrant Rights Clinic, Docket 12-375 (Jan. 10, 2015).
 8. Comments of Martha Wright et al., *supra.*; 47 U.S.C. §201.
 9. Wagner and Rabuy, Prison Policy Initiative, *Following the Money of Mass Incarceration*, (2017), <https://www.prisonpolicy.org/reports/money.html>.
 10. Kopf and Rabuy, PPI, *Prisons of Poverty: Uncovering the Pre Incarceration Incomes of the Imprisoned* (2015), www.prisonpolicy.org/reports/income.html (incarcerated people had a median annual income of \$19,185 prior to their incarceration — 41% less than non-incarcerated people of similar ages); No Price on Justice, *New York's Ferguson Problem* (September 2020), https://noprisonjustice.org/wp-content/uploads/2020/09/New_York_Ferguson_Problem_NJ_Report.pdf; Lawyers Committee for Civil Rights Under Law, *Too Poor to Pay: How Arkansas's Offender-Funded Justice System Drives Poverty & Mass Incarceration* (March 2019) https://www.hrw.org/sites/default/files/report_pdf/usprobation0218_web.pdf. These practices extract wealth from vulnerable communities. Worth Rises and Brooklyn Community Bail Fund, *Paying for Jail: How County Jails Extract Wealth from New York Communities* (December 2019), <https://worthrises.org/s/Paying-For-Jail-NY>.
 11. Ms. Martha Wright-Reed initially filed her petition before the Commission in 2003 and it was not granted until 2012, and lower rates were not adopted until 2013. *Rates for Interstate ICS*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 12-375, 28 FCC Rcd 14107 (2013).
 12. Helping Educate to Advance the Rights of the Deaf (HEARD) has filed multiple times before the Commission to no avail, see Comments (March 25, 2013), <https://ecfsapi.fcc.gov/file/7022134808.pdf>, Letters from incarcerated people (March 25, 2013), <https://ecfsapi.fcc.gov/file/7022134805.pdf>, Letter (Dec. 13, 2020), <https://ecfsapi.fcc.gov/file/7521063739.pdf>, Further Comments (Dec. 20, 2020), <https://ecfsapi.fcc.gov/file/7521063749.pdf>, Reply Comments (Jan. 14, 2014), <https://ecfsapi.fcc.gov/file/7521065458.pdf>, Second Further Notice Comment (Jan. 12, 2015), <https://ecfsapi.fcc.gov/file/60001013058.pdf>, Third Further Notice Comment (Jan. 19, 2016), <https://ecfsapi.fcc.gov/file/60001408910.pdf>. See also National Disabilities Rights Network and National Association of the Deaf Comments (Jan. 19, 2016), <https://ecfsapi.fcc.gov/file/60001415784.pdf>; Comments of HEARD (Nov. 23, 2020) and TDI et al. (Nov. 23, 2020).
 13. Letter from Ajit Pai, Chair, Federal Communications Commission to Brandon Pressley, President, National Association of Regulatory Utility Commissioners (July 20, 2020), <https://docs.fcc.gov/public/attachments/DOC-365619A1.pdf>.