

**STATEMENT OF
COMMISSIONER MIGNON CLYBURN**

Re: *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375.

South African President Nelson Mandela is known to have said, “that no one truly knows a nation until one has been inside its jails” and that “a nation should not be judged by how it treats its highest citizens, but its lowest ones.”

Today, our proud nation holds the regrettable distinction of having the highest rate of incarceration in the world, and with recidivism rates within five years of every inmate released topping 75%, a broad coalition can be heard calling for comprehensive criminal justice reform. But what is often missing during these bi-partisan criminal justice reform discussions is how integral today’s decision is to the success or failure of these efforts.

Incarceration is a family matter, an economic matter, a societal matter. The greatest impact of an inmate’s sentence is often on the loved ones who are left behind.

These families are shouldering incredible burdens, making unbelievable economic and personal sacrifices that impact their health, education and quality of life. They face stigmas that are literally destroying communities. And for too long we remained idle as families, friends, clergy, attorneys and coalitions pleaded for relief.

But October 22, 2015, marks the day, 14 long years after the court dismissed their lawsuit and referred the petitioners to this agency, when we answer the calls and uphold our statutory obligation to ensure that everyone pays just, reasonable and fair rates for all telephone calls. I am extremely proud that the FCC is finally acting on behalf of the 2.7 million children who have been suffering unfairly and most often in silence. No more excuses, no more justification for inaction that put other agency priorities over fair rates at the expense of these children’s well-being. The only thing that was ever asked of us was to be in compliance with our rules and regulations so that families can make a simple call, hear the voice and express the love for a parent over the phone, without sinking further into an economic morass.

One consistent refrain I hear when we speak about this issue is – why should we care? People are locked up for a reason. Let’s throw away the key. I do not care what price they pay. They deserve everything they get.

The truth is that each of us is paying a heavy price for what is now a predatory, failed market regime. None of us would consider ever paying \$500 a month for a voice-only service where calls are dropped for seemingly no reason, where fees and commissions could be as high at 60% per call and, if we are not careful, where a four-minute call could cost us a whopping \$54. Truth be told, however, most of us in this room have the ability to pay those costs. But, for the majority of those faced with these bills, high payments are their reality and they are making incredible sacrifices unimaginable to most of us. This is untenable, egregious and unconscionable.

Two weeks ago, I met Jazlin Mendoza from New Mexico, whose grandparents have been forced to jeopardize her educational future by forgoing the purchase of a much-needed computer, printer and laptop in order to stay in touch with her father. Young Ms. Mendoza’s family has spent \$28,000 over the last 10 years so that she can spend a few minutes each month speaking to the father who was incarcerated when she was four years old. She spoke, voice trembling, about being resentful of a person she loves very much because that line item in the family budget kept her in digital darkness.

And then there are grandparents, such as the late Mrs. Martha Wright, lead petitioner in the phone justice movement, who are sacrificing their health and well-being by forgoing needed medications in order to stay in touch with their incarcerated grandchildren who are increasingly hundreds of miles away from home.

We met Bethany Fraser back in 2013, who, along with hundreds of thousands of others, are forced to relocate, downsize and make difficult sacrifices in order to keep their children connected to their fathers. In a nation as great as ours, there is no legitimate reason why anyone else should ever again be forced to make these levels of sacrifices, to stay connected, particularly those-- who make up the majority in these cases --who can least afford it. The system is inequitable, it has preyed on our most vulnerable for too long, families are being further torn apart, and the cycle of poverty is being perpetuated.

Studies consistently show that meaningful communication beyond prison walls helps to promote rehabilitation and reduce recidivism.

700,000 inmates are released every year and too many of them return to their communities as strangers, are less likely to successfully reassimilate and more likely to continue the cycle back to prison because studies estimate that only 38% of them are able to maintain "at least" regular monthly contact. In addition to increased crime, crowded correctional facilities, more expensive prisons being built, and the judicial time required to prosecute additional crimes by repeater offenders, it costs an average of \$31,000 per year to house each inmate. We all are paying enormous costs.

Voting to endorse today's reforms will eliminate the most egregious case of market failure I have ever seen in my 17 years as a state and federal regulator. Adopting rate caps for all local and long distance calls from correctional facilities, eliminating and capping an endless array of fees, ensuring that every call made from a prison or jail has a rate that is just, reasonable and fair, and closing loopholes will make us truly compliant with those pillars so clearly laid out in the Communications Act. Calls from any state or federal prison in this nation will soon be capped at 11 cents a minute, and, except for three capped fees, all other secret or oblique fees are done.

Many may ask why not go further and adopt rates like New Jersey at just 4.5 cents a minute or West Virginia of just over 3 cents a minute? My answer is two-fold: the FCC is creating a federal ceiling with rate caps, based on the filings of the majority of the industry. And there is nothing stopping states that have yet to reform to follow the lead of New Jersey, New York, Ohio and others to further reduce fees, and I hope that with collective encouragement, this will happen soon.

And yes, it is true, I suffer from a degree of heartburn when it comes to the policies surrounding site commissions, but this too is an area where states must do their part and take a hard look at their site commission practices and how such payments impact prices, service and the reverberating impact on the community.

Change is never easy, but I am confident that today's decision is rooted in the record and provides a reasonable transition path for all impacted parties.

Today's vote will never make up for the inactions of the past, but it is my hope that the Order will finally bring relief to those who have waited for so long.

I want to thank the advocates, many of them are here today, for bringing this issue to my attention many years ago, particularly the original petitioners and their counsel, MAG-Net and their Campaign for Phone Justice, and, while there have been countless advocates, let me also thank the Human Rights Defense Center (HRDC), the Prison Policy Initiative, and the Leadership Conference on Human and Civil Rights who have been dedicated to this issue for over a decade. You have remained steadfast in your

advocacy and are providing the impetus for us as we tackle the issues in the Further Notice, including the video visitation regime.

Mr. Chairman, as I yield, allow me to thank you for making this issue a priority and dedicating the resources to reach today's result. And Commissioner Jessica Rosenworcel, we would not be here without your support in 2013, and for that and more, I thank you.

Finally, I would be remiss if it didn't thank the dedicated team of the Wireline Competition Bureau including Matt DelNero, Madeleine Finley, Eric Ralph, Lynne Engledow, Pam Arluk, Gil Strobel, Rhonda Lien, David Zesiger, Don Sussman, Thom Parisi, Christine Sanquist, Doug Galbi, and Bakari Middleton, as well as the assistance from the Office of General Counsel, the Consumer and Governmental Affairs Bureau, and of course my legal advisor Rebekah Goodheart, who worked long and hard so that soon, millions of families will finally be able to afford to stay in touch.