

**STATEMENT OF
CHAIRMAN AJIT PAI**

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

Dig into the record of this proceeding, and you will find these comments from the wife of an incarcerated man. She described how the cost of prison phone calls impacts her family:

My loved one calls me once a day for 20 minutes each day. This is the only time we have to update each other on our lives, to comfort him and let him know that he's not being left behind, to encourage him and his continued behavioral improvement, that this change he's attempting is appreciated and worth the difficulty and effort. This costs \$130.20 [a month] for a mother whose husband is incarcerated, and who has children[] who need to know their father despite him being inside. This amount translates to groceries for the month. When you don't have much, you have to choose between feeding your kids, or encouraging your husband, and allowing your kids to know their father.

This is not right. No parent should have to make such a choice.

Recognizing the critical need to ensure that the incarcerated and their loved ones can stay connected, the Commission has previously made several attempts to address the rates and charges for inmate calling services (ICS). But the U.S. Court of Appeals for the D.C. Circuit has twice rejected and remanded those efforts and issued four stays along the way (once in 2014 and thrice in 2016). Judge Edwards' opinion for the court rejecting the Commission's 2015 decision on this issue held that the decision was a "fundamental misreading" of the law, "lack[ed] justification in the record," was "devoid of reasoned decisionmaking[,] and [was] thus arbitrary and capricious."

My aim in this proceeding has long been and continues to be simple: to do what we can do as a matter of law and what we should do as a matter of justice. We meet that aim today. We follow the law and the facts to respond to the court's directives, and we propose to comprehensively reform the ICS rates within our jurisdiction.

To begin with, we address the court's remand on ancillary service charges. These are separate fees that are not included in the per-minute rates that ICS providers charge for individual calls. The D.C. Circuit directed us to consider whether ancillary service charges can be separated into interstate and intrastate components, so that the latter can be excluded from the reach of our rules (since we don't have jurisdiction over intrastate calls). In today's Order, we find that, as a practical matter, these charges generally can't be separated, except in a limited number of cases. As a result, ICS providers are generally subject to the FCC's rules when it comes to ancillary service charges. This is good news for the incarcerated and those they call. Under today's ruling, ICS providers generally can't charge incarcerated individuals and their families any ancillary service charges other than the types allowed by our rules. And they can't charge ancillary service fees that exceed our applicable fee caps. This will mean fewer big ancillary fees added to bills and fewer headaches and heartaches for those who have to pay them.

In the accompanying Further Notice, we propose to decrease the current rate caps for interstate ICS. Specifically, we propose to lower our current interstate rate caps of \$0.21 per minute for debit and prepaid calls and \$0.25 per minute for collect calls to \$0.14 per minute for debit, prepaid, and collect calls from prisons and \$0.16 per minute for debit, prepaid, and collect calls from jails. This would be a significant cut of 24-44%. We make this proposal based on extensive FCC staff analysis of the most recent cost data submitted by ICS providers. And we use a methodology that addresses the flaws identified by the D.C. Circuit underlying the Commission's 2015 and 2016 rate caps. Some may argue that these proposed caps should be reduced even further. To them I would say that I look forward to the record that develops. Should the facts warrant, this agency will, once again, follow the law and apply rigorous economic analysis to the data in setting final interstate rate caps. That is a path that will deliver phone justice and survive judicial scrutiny. For remember: Phone justice for the incarcerated and their families is a reduction in rates that will stand up in court, not yet another decision that gets struck down and leaves those least able to pay more vulnerable than ever.

Finally, in this Further Notice, we propose to cap rates for international ICS, which remain uncapped today.

I'm proud that we're taking a comprehensive, bipartisan approach to address the ICS rates and charges within our jurisdiction. I'm also proud of efforts to address matters that lie beyond our jurisdiction. These efforts began with the work of Commission staff, whose analysis of intrastate rate data revealed that the vast majority of ICS calls—roughly 80%—are reported to be intrastate. They also found that ICS providers are charging egregiously high intrastate rates across the country—as much as 26 times the interstate rate. Again, the D.C. Circuit has ruled that the FCC has no authority to cap these rates. I therefore would welcome congressional action to grant the Commission such authority.

So long as this gap in the law remains unfulfilled, I urge our state partners—Governors, state legislatures, state corrections officials, and state commissions—to address intrastate ICS rates. That's why I recently sent a letter to the President of the National Association of Regulatory Utility Commissioners as well as 45 state commissions calling on states to exercise their authority and, at long last, address this pressing problem. I'm pleased that NARUC agrees and I look forward to working with them on this important issue. Only with joint effort can we ensure that incarcerated individuals and their loved ones can maintain vital connections.

For their outstanding, exacting, and tireless work on this item, I'd like to thank the following Commission staff: Susan Bahr, Allison Baker, Peter Bean, Kelly Dickson, Justin Faulb, Amy Goodman, William Kehoe, Minsoo Kim, Madison Laton, Kris Monteith, Terri Natoli, Payal Patel, Erik Raven-Hansen, Marvin Sacks, Gunjan Shah, and Gil Strobel of the Wireline Competition Bureau; Peter Alexander, Octavian Carare, Paula Cech, Stacy Jordan, Steven Kauffman, Richard Kwiatkowski, Susan Lee, Giulia McHenry, Amy Nathan, Jeff Prince, Eric Ralph, Daniel Shiman, Emily Talaga, Shane Taylor, and Geoff Waldau of the Office of Economics and Analytics; Ashley Boizelle, Mike Carlson, Sarah Citrin, Valerie Hill, Jake Lewis, Rick Mallen, Linda Oliver, Joel Rabinovitz, and Bill Richardson of the Office of General Counsel; Eliot Greenwald and Michael Scott of the Consumer and Governmental Affairs Bureau; and Rizwan Chowdhry, Jeffrey Gee, and Kalun Lee of the Enforcement Bureau.