

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

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

Forgive me if I seem somewhat subdued today. I had every intention of displaying tears of joy and emitting audible sighs of relief, as we build on our reforms and continue to act on a proceeding that sat idle at the FCC for nearly a decade. My rather gloomy disposition is not because nearly three million children will soon be able to keep in touch with their currently incarcerated parent at more fair, just, and reasonable rates; it is not because someone who is jailed but still awaiting a hearing or a trial may now speak to their counsel more affordably. I am somber today because after all this time, and all this attention, too few people really care.

Two petitions, 13 years and, for me, three wireline advisers later, we are on the cusp of taking “a more conservative approach” when calculating rate caps to moderate an industry that uses inmates as a captive profit center and bankrupts families and communities. I am melancholy this morning because our repeated attempts at measured and lawful reforms have been met with intense opposition from people and places, who would be demanding justice, fairness, and equity when it comes to costs for everyone else, except this particular class of customer.

And yes, I am downright disappointed, that too many correctional facilities do not give a second thought to using egregious profits and outrageous revenues extracted from those who are often the least able to pay, to fund operations that often have nothing to do with inmate needs, or more to the point of this Order, with the provisioning of calling services.

In my 18 years as a regulator, this regime is a glaring example of is the greatest and most distressing type of injustice I have ever seen in the communications sector.

It does not seem to matter that many of these inmates hail from impoverished communities. It does not seem to matter that only 38% of them stay in touch with loved ones on a regular basis because of these exorbitant rates. It does not even seem to matter that all credible studies show that maintaining connections with those back home reduces the potential for future criminal activity, which ultimately means that we all pay less because we will house fewer prisoners. None of this seems to matter.

You have heard the stories time and time again. Fifteen minute calls costing \$17 or more. Families spending over a thousand dollars a year on inmate calling services—sometimes for a decade or more. Fathers, mothers, brothers, and sisters relocating or downsizing their homes so that they may better afford to stay in touch.

And of course, there are the grandmothers, like the lead petitioner, the late Mrs. Martha Wright, who sacrifice their healthcare by rationing medication or doing without many basic needs, in order to maintain contact with their grandchildren. I could not say it any better than now-20-year-old Wandjell Harvey-Robinson, of Champaign, Illinois, who, according to inmate advocates, was in the third grade when both her parents were incarcerated: “No one, should be told [that] their love, is too expensive.”

It is because of that then-third grader and approximately 2.7 million children just like her that I, and the rest of us, must maintain hope, and do our part in fulfilling the promises for a brighter future. We must not lose sight of the benefits that human contact brings: recidivism decreases when communication increases. In fact, we have already seen the effect of real reforms: lower rates and increased interstate call volume, making it a win-win-win for providers, inmates and their families. Today’s Order is not only significant because it finally ensures that the principles so clearly spelled out in the Communications Act apply to all consumers, it represents the FCC’s contribution to criminal justice reform. By eliminating, in the words of a civil rights advocate, this “tax on pain”, we are helping to ensure that an inmate’s debt to society, is not paid again and again, by their sons and daughters, mothers and fathers.

I am hopeful that the actions we take here today, will enable a permanent national rate backstop to finally take hold. Some providers have argued throughout this proceeding and in litigation that some facility, some locality, some slice of the ICS universe may have higher costs than our imposed caps and thus their legitimate costs are not being covered. This Order relies on the information provided by the companies, an association which represents sheriffs, and a leading regulator in state reforms, and it fully addresses and covers those providers' costs. But, if there happens to be such an outlier, the Commission's waiver process remains open for business.

Today's Order on Reconsideration adopts rate additives for facilities costs and increases rate caps for all facilities from the smallest jails to the largest prisons. This is especially difficult for me, in light of some jurisdictions that have reduced rates to as low as five cents a minute. But I am comforted that this is a national backstop, and that where costs are lower and states and localities have the ability to reform, the benefits will flow to inmates, their families, and ultimately, to all of us.

Finally, I would like to take this opportunity to address what the Commission has declined to consider as a legitimate cost of ICS: site commissions. Site commissions comprise just a small fraction of correctional budgets, but have a massively regressive economic impact on inmates and their families. To be sure, there are costs that facilities may incur in providing ICS, but there are no costs that justify the scope of most of these commissions. States and localities should act and act now, to rein in these practices, and those jurisdictions that have already undertaken reform, should be applauded.

A dedicated team, made up of staffers in the Wireline Competition Bureau and the Office of General Counsel have worked for years to get to this day and they deserve many thanks. While not a complete list, they include: Matt DelNero, Madeleine Findley, Pam Arluk, Gil Strobel, Rhonda Lien, Don Sussman, Kristin Hopkins, and Christine Sanquist in WCB; Jon Sallet, Suzanne Tetreault, Rick Mallen, Jake Lewis, Sarah Citrin in OGC; Claude Aiken in my office, and former staffer Rebekah Goodheart. Thank you as well to the many advocates, for your work on and commitment to righting this glaring injustice in the communications industry. These are difficult and complex issues, but your hard work will continue to provide much-needed relief and justice for millions.