

BEFORE THE PUBLIC SERVICE COMMISSION  
OF  
THE STATE OF MISSISSIPPI

92-UA-0044

MISSISSIPPI PUBLIC  
SERVICE COMMISSION

IN RE: ORDER OF THE MISSISSIPPI  
PUBLIC SERVICE COMMISSION  
INITIATING A GENERIC DOCKET  
PERTAINING TO THE PROVISION  
OF COINLESS TELECOMMUNI-  
CATION SERVICES TO INMATES  
IN CORRECTIONAL FACILITIES

FINAL ORDER

I.

Background

This cause was initiated by this Commission on February 4, 1992, in accordance with the Commission's continuing duty and responsibility to protect and promote the public interest in matters concerning intrastate telecommunications issues as set forth in §77-3-35(2)(a) of the Mississippi Code of 1972, as amended.

In the Order Initiating a Generic Docket, the Commission stated that the purpose of the proceeding would be to consider the provision of coinless telecommunication services to inmates in correctional facilities and the establishing of appropriate guidelines.

A copy of the Commission's Order of February 4, 1992, was served on all parties to the Commission's Docket No. 90-UA-0280, the Mississippi Sheriffs Association, the Mississippi Municipal Association, the Mississippi Association of Supervisors, and the Mississippi Department of Corrections, along with a notice inviting these entities to intervene and participate in all phases of this docket. The Public Utilities Staff provided said entities with copies of prospective guidelines for the provision of coinless telecommunication services to inmates in correctional

facilities, and sought comments concerning said guidelines. Notice of the proceedings was also published in The Clarion-Ledger on February 10, 1992, in accordance with the applicable law.

Pursuant to a Scheduling Order issued by this Commission, all intervenors and interested parties were granted the opportunity to file written direct testimony, to serve data requests, and to appear and present oral testimony before the Commission at a hearing on this matter.

The Commission received and considered written comments and/or testimony from various entities and heard and considered oral testimony during the hearing on this matter held before the Commission on March 30 and 31, 1992.

The following parties participated in this cause by filing with the Commission comments and/or written testimony and/or oral testimony:

1. Public and Governmental Witnesses:  
Mississippi Sheriffs Association  
Mississippi Department of Corrections  
Mississippi Central Data Processing Authority
2. COCOT Providers:  
Talton Telecommunications Corporation  
North American Communications of Mississippi, Inc.  
Mississippi Correctional Communications, Inc.  
Robert CeFail & Associates, Inc.
3. Equipment Manufacturers:  
Intellicall, Inc.
4. Resellers and IXCs:  
LDDS-II, Inc.  
Advanced Telecommunications Corporation  
Sprint Communications Company L.P.
5. Local Exchange Companies:  
South Central Bell Telephone Company  
Potosi Company (Franklin Telephone Company, Inc. and  
Delta Telephone Company, Inc.)  
ALLTEL Mississippi, Inc.  
Mid-South Telephone Company

Although not submitting comments or testimony, the following entities were present and represented at the proceedings before the Commission as interested parties:

Governor's Office of the State of Mississippi  
Mississippi Department of Corrections

AT&T Communications of the South Central States, Inc. intervened in this cause, but did not appear or participate at the hearing.

All requests to appear, intervene, and participate in the proceedings were granted by the Commission.

II.

History of Industry

Technology for the provision of telecommunications services in general has evolved rapidly in the last few years, and the same is true with regard to the provision of coinless telephone services, in particular. The Customer Owned Coin Operated Telephone ("COCOT") industry has assisted in this advancement through the development of "smart" or "intelligent" telephones. These telephone instruments furnish operator services from within the telephone equipment. The telephone sets utilize microprocessors located within the equipment to offer "store-and-forward" technology. This permits the individual telephone to have the ability to temporarily "store" information and, upon remote instructions, to "forward" this information to a central computer. The stored information is utilized in order to rate calls and to bill and collect for calls. Information stored includes length, date, and time of each call, the identifying digits of the credit card, or, for third-party and collect calls, the number to which the calls are to be billed.

The provision of pay telephone service in a prison/inmate environment is fundamentally different from the public pay phone service provided outside of confinement institutions. For security reasons, many correctional facilities limit inmates to placement of 0+, collect only telephone calls. The automated operator features inherent in "store and forward" equipment are

uniquely well suited to servicing the prisoner/inmate environment.

The smart telephones, such as those offered by Intellicall, a party to this proceeding, are programmable in accordance with the instructions of the correctional facility's administration. Once programmed, these smart telephones can allow: (1) collect only calling; (2) calls to be placed only to pre-approved numbers; (3) blocking of any numbers that the administrator desires, including numbers of public safety officials, directory assistance, toll-free numbers, and other numbers that might permit fraud; (4) limits on the time of day and the duration of the call as designated by the administrator; and (5) call detail information available to the facility administrator on a real-time basis.

This latest available technology gives the correctional facility administrator, using a personal computer, an up-to-the-minute report on all calls from his correctional facility. Reports of this nature can be quite helpful in the event of an escape or an escape attempt. This equipment is also a new tool for the correctional facility administrator in allowing him to obtain leads in solving cases such as where a prisoner attempts to contact by telephone his cohorts who are still at large.

These smart telephones are able to complete collect only calls by utilizing automated voice prompted features, thus eliminating the use of a live operator. This reduces the possibility of inmate fraud or harassment of an operator. The smart telephone can require a positive acceptance of a collect call within a predesignated time, and a call can be terminated without charge to the called party if a positive acceptance is not made within that time.

The nature of the industry for the provision of coinless telephone service to correctional facilities is such that it lends itself to extensive competition. The inmate service providers ("ISP") grant commissions to the governmental entities responsible

for the correctional facilities. Commissions are based upon revenues received from the placement of the telephone equipment, by the ISP, in the correctional facilities. The number of telephone sets placed in the correctional facilities and the amount of commissions paid from the revenues generated by the telephone equipment are matters negotiated between the ISP and the administrators of the correctional facilities.

### III.

#### Findings of Fact

Based upon the written comments received, the written and oral testimony, the exhibits, and the evidence presented at the hearing, the Commission makes the following findings of fact:

1. The Administrators of correctional facilities must balance the inmates' needs for telephone service against the institutions needs to regulate access to such service.

2. The placing of coinless telephones directly in the cell or cellblock area of inmates in correctional facilities will not only benefit the inmates by allowing them increased access to telephone service, but also benefit the administration of the correctional facilities. Personnel of correctional facilities are often required to remove prisoners from their cells and stand guard over them while the prisoners make telephone calls. This procedure is both costly and dangerous. The cost of the personnel required to guard the prisoners while making telephone calls could be saved through the installation of coinless telephones directly in the cell or cellblock area. Furthermore, while prisoners are removed from their cells to make telephone calls in unsecured areas, they place the guard, other correctional facility employees, other prisoners, and the general citizenry at risk. Placing coinless telephones directly in the cell or cellblock area can improve morale among the inmates and provide the administrators of correctional facilities another tool for

maintaining discipline among inmates. If inmate discipline is lacking, the administrator can limit or prohibit access to telephone service until such time as deemed proper by the administrator. The state-of-the-art automated technology allows commissions to be paid to the government from the gross receipts of the coinless telephones. These commissions can be utilized pursuant to Miss. Code Ann. §47-5-158.

3. Through their testimony, correctional facility administrators expressed unanimous support for the state-of-the-art automated telephone technology. They expressed their desire to provide such telephone sets within individual cell or cellblock areas of the correctional facilities.

4. South Central Bell ("SCB") stated that it supports the adoption of guidelines for the provision of inmate calling service; however, SCB stated that the ISP should not be permitted to program their smart sets for the completion of local and intraLATA toll calls. SCB's position is that such calls should be routed through the LEC which would collect the call revenues. SCB's contention is that the failure to route local and intraLATA calls to the LEC would result in a significant erosion of contribution levels at the cost of local service since those LEC revenues would be "at risk".

5. The introduction of smart telephone technology at correctional facilities should greatly stimulate the volume of inmate placed calls from those institutions, thus resulting in significant new revenues to the LEC for contribution toward the cost of local exchange service. For example, the commander of the Hinds County, Mississippi, jail stated that since installing smart phones, the facility is averaging 8,000 calls per month for approximately 200 inmates. Other jurisdictions that have authorized smart phones have also experienced tremendous stimulation. The South Carolina Public Service Commission, in Docket No. 90-305-C, Order No. 91-122, dated March 4, 1991,

observed that one correctional facility went from 295 calls per month to over 2,000 calls while another facility's calls increased from 455 per month to 2,680 calls. Additionally, in South Carolina, one ISP testified that 50% - 60% of its gross revenues were paid to the LEC. The LEC should receive revenue for the provision of services to ISP utilizing smart telephone sets within correctional facilities by (a) call transport revenue over LEC facilities (whether directly or through a reseller of LEC services); (b) LEC validation services in order to validate called number restrictions on all collect calls; (c) LEC billing and collection services; and (d) LEC provided access to the public switched network. In those situations where the ISP rather than the LEC provides the equipment in correctional facilities for utilization by inmates, the LEC receives the foregoing revenues while avoiding certain associated costs, including commissions, provision of equipment and equipment maintenance. Importantly, the ISP testified that they will be unable to provide inmate telephone services at correctional facilities while paying commissions to the governmental entities and covering their costs of service if denied the ability to complete and bill for local and intraLATA calls as well as interLATA calls from their smart telephone sets placed within the correctional facilities.

6. The increased availability of telephones to inmates through the use of state-of-the-art automated smart set technology, within the cell or cellblock area, should also stimulate additional calls by the inmates, thus increasing commissions paid to the correctional facilities.

7. The Commission finds that it is in the public interest to authorize the ISP to handle 0+ local, intraLATA and interLATA telecommunications services in Mississippi. The Commission finds it in the public interest, due to the uniqueness of this type of service, to maintain some control over the rates charged for in this area of telecommunications. The burden of paying for the

call lies on the family and friends of the inmate and they should not be penalized because of the inmate's transgressions. Since ISP will provide more access to telephone service, and, since calls are made on a collect basis, the Commission finds it necessary to provide some type of rate protection for the called parties. Consequently, we endeavor to set rates that will allow the ISP to be financially viable without penalizing the called party. For local calls an ISP must subscribe to the tariffed offering of the LEC, for COCOTS in that service area. All 0+ local calls will be provided at rates not to exceed rates for similar service provided by LECS, including time of day and any other applicable discounts. For intraLATA calls an ISP will have the authority to resell such services and may select the carrier of its choice provided that the carrier holds a certificate of public convenience and necessity from this Commission. This does not preclude a LEC from handling that traffic. [ InterLATA authority to resell is also permissible provided the underlying carrier holds a certificate of public convenience and necessity from this Commission. Rates, including operator surcharges, shall not exceed SCB rates for local and intraLATA calls and shall not exceed AT&T's rates for interLATA calls. No additional surcharges of any kind shall be allowed. The Commission finds the above authorized rates to be just and reasonable. ]

8. In establishing rules to govern the provision of inmate telecommunication service, the Commission recognizes that such services are provided by the institutions as privileges to inmates. The administration of the facility should have reasonable leeway to establish, in conjunction with the ISP, the terms of the availability of such service to inmates, given the existing and foreseeable technical capabilities. Moreover, rules should not be so stringent that new technical developments are excluded.



9. The Commission finds that the technological advances and automated operator service offered by the use of "store-and-forward" coinless telephone equipment for the provision of inmate telephone service at correctional institutions is in the public interest.

IT IS, THEREFORE, ORDERED:

A. The Commission adopts the following requirements which must be complied with by all providers of telecommunication services to inmates in correctional facilities:

1. Inmate calling service shall be arranged for outward only calling.

2. Calls may be terminated after fifteen (15) minutes of conversation time or sooner, at the discretion of the administrator, or in case of emergency, in accordance with the rules or regulations of the correctional facility. The ISP will not provide credit or equivalent service to the called or calling parties for such calls.

3. Inmate calling service shall be arranged to block Directory Assistance calls.

4. Unrestricted public telephone service may be provided, at the administrator's request, in a fully supervised location.

5. Except as provided below, inmate calling service shall be arranged to allow only 0+ collect calls for local, intraLATA, and interLATA calls. All other calls, including, but not limited to, local direct, credit card, third number, 1+ sent-paid, all 0-, 700, 800, 900, 976, 950, 911, and 10XXX shall be blocked.

6. Inmate calling service may be arranged, by the ISP, to limit individual inmate calls to approved telephone numbers, at the request of the facility administrator.

7. Inmate calling service may be arranged by the ISP to block access to certain telephone numbers (e.g., judges,

witness, sheriffs, fire and police departments, etc.) at the request of the facility administrator.

8. At the request of the facility administrator, call detail information, such as the date and time of the call, duration of the call, and called and calling telephone numbers, may be furnished to the facility where prison authorities stipulate such information is appropriate in preventing or identifying abuse or unlawful use of service and where the provision of such information is not in violation of any federal, state or local laws, regulations or orders.

9. The ISP shall ensure that a positive response from the called party indicating a willingness to pay for the call is received before completing the call. A positive response is defined as a pulse/tone generated response or a verbal acceptance.

10. The ISP shall terminate the call within 15 seconds from the last message given if no positive acceptance is received.

11. Any company proposing to provide telecommunications service to correctional inmate facilities must first obtain a certificate of public convenience and necessity from the Mississippi Public Service Commission. Certification would be conditioned upon a showing of professional competence, financial capability, and showing that the equipment is capable of providing features such as blocking, branding, positive acceptance and all other requirements as listed in this order. Upon certification the telecommunications provider shall file with the Commission, on a confidential basis, a copy of all contracts entered into with any inmate facility. Applications for certificates to provide telecommunication services to correctional or inmate facilities shall conform to Appendix A, Schedule 1, of the MPSC Rules of Practice and Procedure. All ISP receiving a certificate of public convenience and necessity from the Commission will be subject to the guidelines herein and all laws and regulations pertaining to public utilities including, but not

limited to, §77-3-87. LECS holding a certificate of public convenience and necessity from the Commission shall not be required to obtain an additional certificate to become an ISP.

12. The ISP shall transport local calls exclusively over LEC facilities. All intraLATA, and interLATA calls shall be transported over the facilities of carriers holding appropriate certificates of public convenience and necessity from the Commission.

13. The Commission's current policy is one access line per phone; however, for the provision of inmate services the Commission will allow a consolidation of lines up to a maximum of three phones to one access line.

14. All ISP are required to validate their billing information.

The above guidelines apply only to the inmate environment. For COCOT locations outside the inmate environment, all current guidelines and tariffs governing COCOT operations remain in effect and unchanged. Violation of any of the above guidelines shall be grounds for revocation of the certificate to operate.

B. As utilized in the above requirements, "inmate calling service" is defined to be service to any type of confinement facility, in secured areas, i.e., prisons, jails, work farms, detention centers.

C. All LECS shall modify their tariffs within twenty (20) days in order to make available to ISP those services necessary to provide telecommunications services to inmates in correctional facilities. These tariff revisions shall include, but not necessarily be limited to, changes which shall permit billing, collecting, and validation by the LEC on behalf of the authorized ISP. The terms, rates, and conditions shall be just and reasonable and no different than that charged by the LEC to other carriers.

This Docket is closed, and this Order is effective as to the date hereof.

Chairman Bo Robinson voted Aye; Vice Chairman Sidney Barnett voted Aye; Commissioner Nielsen Cochran voted Aye.

SO ORDERED, this the 20<sup>th</sup> day of May, 1992.

MISSISSIPPI PUBLIC SERVICE COMMISSION



Bo Robinson

Bo Robinson, Chairman

Sidney Barnett

Sidney Barnett, Vice Chairman

Nielsen Cochran

Nielsen Cochran, Commissioner

ATTEST: A TRUE COPY

Brian U. Ray  
Brian U. Ray, Executive Secretary