

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

GLOBAL TEL*LINK, et al.,)	
)	
<i>Petitioners,</i>)	
)	
v.)	No. 15-1461 and
)	consolidated cases
FEDERAL COMMUNICATIONS)	
COMMISSION and UNITED STATES)	
OF AMERICA,)	
)	
<i>Respondents.</i>)	
)	

**OPPOSITION OF THE FEDERAL COMMUNICATIONS COMMISSION
TO MOTIONS TO MODIFY, RECONSIDER, OR ENFORCE STAY**

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March 22, 2016

Respondent the Federal Communications Commission (FCC or Commission) hereby opposes the motions filed by Securus Technologies, Inc. (Securus), Telmate, LLC (Telmate), and Global Tel*Link (GTL), to modify, reconsider, or enforce this Court's March 7, 2016, order granting a partial stay pending review of the Commission's 2015 inmate calling services reforms. *See Global Tel*Link v. FCC*, No. 15-1461 et al. (D.C. Cir. Mar. 7, 2016) (per curiam) (*March 7 Order*). All three motions, although differently styled, seek the same fundamental relief: an order that would free inmate calling providers, for the duration of this appeal, from any limit on the per-minute rates they charge for intrastate calls. Granting such relief would require this Court to expand the limited stay it only recently—and carefully—crafted. There is no cause to do so.

The Commission's new rules, by their terms, extended the interim rate caps to intrastate inmate calls in the event the permanent rate caps (but not the amended definition of inmate calling services) were stayed. *See* 47 C.F.R. §§ 64.6000(j); 64.6030. Two parties sought a stay of the interim rate caps; no party requested a stay of the amended definition. Because the Court declined to stay the interim rate caps, they now apply to intrastate (as well as interstate) calls. That result is entirely reasonable.

The interim rate caps are the same caps—\$0.21 per minute for debit and prepaid calls, and \$0.25 per minute for collect calls—that have been in effect for

interstate calls for over two years. The movants make no claim that those caps will prevent them from recovering their overall costs of providing service, including a reasonable rate of return. Instead, they seek the unfettered freedom, for the course of this appeal, to continue requiring inmates and their families to pay what the record shows are “egregiously high” rates for intrastate calls. *See Rates for Interstate Inmate Calling Services*, 30 FCC Rcd 12763, 12768 ¶7 (2015) (*2015 Order*). A further stay to permit that result would be an extraordinary remedy for which the movants have provided no adequate justification. The Court should leave in place the existing stay’s important protection for end users of inmate calling services and deny the pending motions.

BACKGROUND

Since 2003, inmates and their families—led by a group known in the administrative proceeding as the “Wright petitioners”—have urged the FCC to curb exorbitant rates for inmate calling services. In 2013, the Commission adopted various preliminary reforms, including caps on the per-minute rates that inmate calling providers would be permitted to charge for interstate calls. *See Rates for Interstate Inmate Calling Services*, 28 FCC Rcd 14107, 14147–53 ¶¶73–81 (2013) (*2013 Order*). The “interim” rate caps that the Commission adopted in 2013 were uniform for all sizes of prisons and jails: \$0.25 per minute for collect calls, and \$0.21 per minute for debit and prepaid calls. *See id.* at 14147, 14152–53 ¶¶73, 81.

Because the Commission derived those caps using the highest data in the record concerning the cost of providing inmate calling services, the caps served as a conservative, upper-bound proxy for cost-based rates. *See id.* at 14147–53 ¶¶73–81.

The Commission codified the interim rate caps in what became Section 64.6030 of the agency’s rules, captioned “Inmate Calling Services Interim Rate Cap.” 47 C.F.R. § 64.6030 (2014). When adopted in 2013, that rule provided:

No provider shall charge a rate for Collect Calling in excess of \$0.25 per minute, or a rate for Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of \$0.21 per minute. A Provider’s rates shall be considered consistent with this section if the total charge for a 15-minute call, including any per-call or per-connection charges, does not exceed \$3.75 for a 15-minute call using Collect Calling, or \$3.15 for a 15-minute call using Debit Calling, Prepaid Calling, or Prepaid Collect Calling.

Id.

As reflected by the defined terms it referenced, the original Section 64.6030 applied only to interstate calls. “Collect Calling,” “Debit Calling,” “Prepaid Calling,” and “Prepaid Collect Calling” were each defined as forms of “Inmate Calling Services.” *See* 47 C.F.R. § 64.6000 (2014). Inmate Calling Services, in turn, meant “the offering of interstate calling capabilities from an Inmate Telephone.” *See id.*

Several parties petitioned for review of the *2013 Order*, and some sought stays of its adopted rules. Although this Court granted the motions for stay in part,

it declined to stay Section 64.6030. *See Securus Techs., Inc. v. FCC*, No. 13-1280 et al. (D.C. Cir. Jan. 13, 2014) (per curiam). The FCC's interim rate caps thus took effect for interstate calls in February 2014.

With the benefit of data and public comment submitted after the *2013 Order*, the Commission in 2015 adopted a comprehensive set of inmate calling reforms. In the *2015 Order*, the Commission determined that the Communications Act authorizes it to regulate intrastate inmate calling services. *See* 30 FCC Rcd at 12814–18, 12859–62 ¶¶108–116, 193–196. The Commission accordingly extended its rules to cover intrastate calls and revised the definition of Inmate Calling Service to remove the former limitation to interstate calls. *See id.* at 12921, App'x (adopting 47 C.F.R. § 64.6000(j)).

The Commission also adopted a new, four-tiered framework of rate caps designed to better reflect the costs of serving individual categories of facilities. *See 2015 Order*, 30 FCC Rcd at 12769, 12782–83, 12790 ¶¶9, 37, 52. For debit and prepaid calls, the new caps were \$0.11 per minute for calls from prisons and \$0.14, \$0.16, and \$0.22 per minute, respectively, for calls from large, medium, and small jails. *See id.* at 12769–70 ¶9. For collect calls, the Commission allowed an approximately two-year period during which rates could be slightly higher than for debit and prepaid calls, before transitioning to the same levels as for those other

types of calls by July 1, 2018. *See id.* The collect calling rate caps that the Commission prescribed are summarized in the following table:

Category of Facility	Cap as of Effective Date (per minute)	Cap as of July 1, 2017 (per minute)	Cap as of July 1, 2018 (per minute)
Prisons	\$0.14	\$0.13	\$0.11
Large Jails	\$0.49	\$0.32	\$0.14
Medium Jails	\$0.49	\$0.33	\$0.16
Small Jails	\$0.49	\$0.36	\$0.22

See id. For all types of calls and categories of facilities, the new rate caps would be codified as Section 64.6010 of the agency’s rules. *See id.* at 12922–23, App’x (adopting 47 C.F.R. § 64.6010). Alongside those rate caps, the Commission limited the types and capped the amounts of permissible charges for services “ancillary” to inmate calling—both interstate and intrastate. *See id.* at 12923, App’x (adopting 47 C.F.R. § 64.6020). The Commission also adopted rules that, for the first time, expressly prohibited inmate calling providers from billing end users a flat rate irrespective of a call’s duration and from imposing per-call or per-connection charges. *See id.* at 12924, App’x (adding 47 C.F.R. §§ 64.6080, 64.6090).

Consistent with that broader framework of reforms, the Commission modified its Inmate Calling Services Interim Rate Cap rule. The revised interim rule—in which the Commission adopted per-minute rates at the same levels as this Court allowed to take effect in 2014—provides as follows:

No Provider shall charge a rate for Collect Calling in excess of \$0.25 per minute, or a rate for Debit Calling, Prepaid Calling, or Prepaid

Collect Calling in excess of \$0.21 per minute. These interim rate caps shall sunset upon the effectiveness of the rates established in section 64.6010.

2015 Order, 30 FCC Rcd at 12923, App'x (47 C.F.R. § 64.6030). The terms Debit Calling, Prepaid Calling, and Prepaid Collect Calling are again defined as types of Inmate Calling Services, and the definition of Provider also references that term.

See id. at 12921–22, App'x (47 C.F.R. § 64.6000(g), (p), (q), (s)).¹

Several parties petitioned for review of the *2015 Order*, among them the movants here. Each of the movants, as well as CenturyLink Public Communications, Inc. (CenturyLink), also requested that this Court stay certain of the Commission's new rules pending judicial review.²

¹ Collect Calling, as now defined, does not reference Inmate Calling Services but rather “call[s] originating from an Inmate Telephone.” *2015 Order*, 30 FCC Rcd at 12920, App'x (47 C.F.R. § 64.6000(d)).

² GTL, Telmate, and CenturyLink sought a stay of the Commission's four-tiered rate caps (47 C.F.R. § 64.6010). *See* GTL January Mot. 20; Telmate January Mot. 1; CenturyLink February Mot. 7. Securus did not join in that request, instead seeking a stay of specified limits and caps on ancillary service charges (47 C.F.R. § 64.6020(b)(1)–(3)). *See* January Mot. 20. Securus also sought a stay of the Commission's definition of the term “site commission” (47 C.F.R. § 64.6000(t)) and of a related reporting requirement (47 C.F.R. § 64.6060). *See id.* And both Securus and Telmate sought a stay of the rules prohibiting per-call charges (47 C.F.R. § 64.6080) and flat-rate calling (47 C.F.R. § 64.6090). *See id.*; Telmate Mot. 1. No party sought a stay of the definition of Inmate Calling Services in Section 64.6000(j), and only Telmate and CenturyLink requested a stay of the Commission's interim rate cap rule (47 C.F.R. § 64.6030). *See* Telmate January Mot. 1; CenturyLink February Mot. 7. Neither Telmate, CenturyLink, nor any other party, however, argued why the Court should stay the interim rate caps.

On March 7, 2016, this Court stayed two specific provisions of the *2015 Order*: the Commission’s new, four-tiered rate caps (47 C.F.R. § 64.6010), and the caps on fees for single-call services (47 C.F.R. § 64.6020(b)(2)). *See March 7 Order* at 1–2. With respect to those provisions alone, the Court concluded that the “petitioners [had] satisfied the stringent requirements for a stay pending court review.” *Id.* at 2. “[I]n all other respects,” the motions for a stay were “denied.” *Id.*

On March 10, 2016, Telmate sought guidance from the FCC’s Wireline Competition Bureau concerning the effectiveness of the interim rate caps to intrastate calls. *See Securus Mot. App’x C (Telmate Letter)*. Telmate argued that, despite the revised definition of Inmate Calling Services in Section 64.6000 of the agency’s rules, the Bureau should “clarify” that the interim rate caps of Section 64.6030 are limited to interstate calls. *Id.* at 4; *see id.* at 3–4. Pay Tel Communications, Inc. supported Telmate’s position, and the Wright petitioners opposed it. *See Securus Mot. App’x D (Pay Tel Letter)*; *Telmate Mot. Exh. C (Wright Petitioners’ Letter)*.

On March 16, 2016, the Bureau issued a public notice resolving Telmate’s request for clarification. *See Securus Mot. App’x A (Public Notice)*. The Bureau explained that “[t]he interim rate caps apply to intrastate [inmate] calls by operation of the rules adopted in the [2015 Order] and the terms of the . . . *March 7 Order*.” *Id.* at 3. The Bureau explained that Section 64.6000(j)’s definition of

Inmate Calling Service “does not distinguish between interstate or intrastate calls, and thus the ‘Inmate Calling Services Interim Rate Cap’ set forth in rule 64.6030 applies to both interstate and intrastate calls.” *Id.*

Accordingly, the Bureau concluded, “the interim rate caps will remain in effect for interstate [inmate calling services]” under the *March 7 Order*, and they “will take effect for intrastate calls in accordance with the schedule adopted in [the *2015 Order*]”: March 17, 2016, for intrastate calls from prisons, and June 20, 2016, for intrastate calls from jails. *Public Notice* at 3; *see id.* at 2.

In response, Securus has filed an emergency motion for “modification” of the Court’s stay to enjoin the application of the interim rate caps embodied in Section 64.6030 to intrastate inmate calls. Mot. 1. Telmate seeks the same relief by way of a motion for “partial reconsideration” of the Court’s stay. Mot. 1. GTL has moved to “enforce” the Court’s stay by “clarifying” that the interim rate caps should not be applied to intrastate calls pending judicial review. Mot. 2.

ARGUMENT

All three movants ask this Court to go beyond the limited stay crafted in the *March 7 Order* by staying the intrastate application of Section 64.6030 of the Commission’s rules. The movants have not made the necessary showing for that “extraordinary remedy.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008).

I. The Interim Rate Caps Apply to Intrastate Calls by Operation of the *March 7 Order*.

As the agency's Wireline Competition Bureau correctly found, the FCC's interim rate caps "apply to intrastate [inmate] calls by operation of the rules adopted in the [2015 Order] and the terms of [this Court's] *March 7 Order*." *Public Notice* at 3.

The definition of Inmate Calling Service that the Commission adopted in 2015 removed the prior limitation to interstate calls and thus "does not distinguish between interstate or intrastate calls." *Public Notice* at 3. Because the definition was not stayed by the *March 7 Order*, it took effect on March 17, 2016. *See March 7 Order* at 2; *2015 Order*, 30 FCC Rcd at 12918 ¶336; *Public Notice* at 2. The 2015 definition of Inmate Calling Services thus governs the scope of the Commission's Inmate Calling Services Interim Rate Cap, 47 C.F.R. § 64.6030, which this Court likewise made clear was not stayed, *see March 7 Order* at 1–2 (staying Sections 64.6010 and 64.6020(b)(2), and denying a stay "in all other respects"). Accordingly—as the Bureau was compelled to conclude—by reason of this Court's partial stay, the interim rate caps took "effect for intrastate calls from prisons on March 17, 2016," and they will take effect "for intrastate . . . calls from jails on June 20, 2016." *Public Notice* at 2; *see 2015 Order*, 30 FCC Rcd at 12918 ¶336.

The movants' claim (at *e.g.*, Securus Mot. 6, Telmate Mot. 4, GTL Mot. 5) that the Court necessarily intended the *March 7 Order* to preserve the status quo as to inmate calling rates during this appeal ignores the order's plain language and effect. The text of the *March 7 Order* is precise, and it nowhere states, as Securus asserts, that the Court has "prohibit[ed] all new calling rates." Mot. 10. Rather, the Court granted the providers' stay motions only "as to the provisions of the [2015 *Order*] regarding 47 C.F.R. §§ 64.6010 (setting caps on calling rates) and 64.6020(b)(2)) (setting caps on fees for single-call services)." *March 7 Order* at 1–2. The Court expressly denied the stay motions "in all other respects." *Id.* at 2. The Court thereby refused not only the two requests for a stay of the revised Section 64.6030, *see* Telmate January Mot. 1; CenturyLink February Mot. 7, but also the requests for a stay of the FCC's rules prohibiting per-call charges (47 C.F.R. § 64.6080) and flat-rate calling (47 C.F.R. § 64.6090), *see* Securus January Mot. 20; Telmate January Mot. 1. By allowing those rules to take effect, the Court declined to preserve the status quo with respect to inmate calling rates.³

³ The statement by Chairman Wheeler and Commissioner Clyburn that this Court's "stay does not disrupt the interim rates set by the Commission in 2013," highlighted by all three movants (at Securus Mot. 6, Telmate Mot. 7, GTL Mot. 6), is entirely consistent with the conclusion that the stay also extends those rates to intrastate inmate calling. As Securus acknowledges (at Mot. 6), the statement by the two Commissioners does not discuss that issue one way or the other.

Contrary to GTL's suggestion (at Mot. 5), the *March 7 Order* is not reasonably interpreted to have signaled that the FCC lacks jurisdiction to impose intrastate rate caps. "One of the" theories based on which GTL sought a stay of the FCC's tiered rate caps in Section 64.6010 was that those caps "were *ultra vires*" as to intrastate calls. Mot. 5. But the *March 7 Order* allows the Commission's bans on per-call charges and flat-rate calling to take effect, as well as a majority of the Commission's restrictions on ancillary service charges, without limiting the application of those rules to interstate calls. *See March 7 Order* at 2. That result is inconsistent with any inference that the Commission lacks authority over intrastate inmate calling rates.

Securus and Telmate argue that the interim rate caps were supposed to sunset on or before the effective date of the revised definitions in Section 64.6000. *See Securus* Mot. 9; *Telmate* Mot. 7. Not so. The interim rate caps were to sunset when the permanent rate caps went into effect, *see* 47 C.F.R. § 64.6030 (providing that the "interim rate caps shall sunset upon the effectiveness of the rates established in section 64.6010"), but the permanent rates have been stayed by this Court.

Securus and Telmate also contend that the interim rate caps cannot plausibly apply to intrastate calls because, "read literally," the Commission's revised definition of Inmate Calling Services "would also apply to international calls."

Telmate Mot. 9; *see* Securus Mot. 9. But the Commission made clear in the *2015 Order* that “international calls are not subject to [the Commission’s] rate caps,” *e.g.*, 30 FCC Rcd at 12798 ¶69—a point that Securus and Telmate acknowledge, *see* Mots. 9.⁴

II. The Court Should Not Expand the Scope of the Existing Stay.

In styling their motions as seeking “modification” or “reconsideration” of the existing stay, Securus and Telmate tacitly recognize that the interim rate caps apply to intrastate calls under the language of this Court’s partial stay and the agency’s rules. Similarly, although asking this Court to “enforce” the stay, GTL seeks to have this Court “clarify” its meaning to enjoin the application of the interim rate caps to intrastate calls. Mot. 2. Each of the movants thus seeks to expand the existing partial stay to lift any protection against excessive intrastate inmate calling rates. There is no reason to do so.

⁴ Securus argues that “every time the [*2015 Order*] mentions ‘interim’ rate caps, the modifier ‘interstate’ appears.” Mot. 8; *see also* GTL Mot. 6 (“[N]one of the [*2015 Order*’s] repeated uses of the term ‘interim’ suggests the existence of ‘interim’ intrastate rates.”). But in every portion of the *2015 Order* that GTL and Securus identify, the references to “interim” rate caps concern the previously existing interim rate caps, not the rate caps the Commission adopted when it modified Section 64.6030. *See* 30 FCC Rcd at 12765–66, 12768, 12770–72, 12827, 12888–89 ¶¶2, 6, 10, 14, 128 n.437, 259. In any event, the extension of the interim rate caps to intrastate inmate calling services results from this Court’s decision not to stay the definition of Inmate Calling Services, in conjunction with its refusal to stay Section 64.6030.

A. The existing stay reasonably protects economically vulnerable consumers while ensuring fair compensation to inmate calling providers.

The Court’s partial stay ensures that all inmate calling rates—interstate and intrastate—are subject to the Commission’s interim rate caps. The stay thus sensibly ensures that inmates and their families will be protected during this appeal from paying unlimited rates for intrastate calls that the record shows they can ill afford. *See, e.g., 2015 Order*, 30 FCC Rcd at 12766–67 ¶3 (discussing the extreme financial hardships faced by many inmates’ families as a result of high inmate calling rates); *id.* at 12768 ¶7 n.28 (describing “the exorbitant rates that many [inmate calling] providers charge per minute for intrastate calls”).

There is no reason to believe, moreover, that inmate calling providers cannot, at a minimum, recover their costs of providing service for intrastate calls (including a reasonable rate of return) within the interim rate caps. There was consensus in the FCC’s proceeding that the cost of providing interstate and intrastate inmate calling services does not significantly differ, and the interim rate caps—which are for most categories of calls far higher than the permanent rate caps, *see supra* pp. 4–6—were set on the basis of highly conservative assumptions about the upper bound of provider costs. *See 2013 Order*, 28 FCC Rcd at 14147–

53 ¶¶73–81. It is thus unsurprising that none of the movants here contends it will be unable, under the existing stay, to recover its intrastate service costs.⁵

Securus and Telmate contend it is unreasonable to apply the interim rate caps to intrastate calls when there are some categories of calls (collect calls from large or medium jails, and all calls from small jails) for which the new rate caps would have permitted providers to charge higher rates.⁶ *See* Securus Mot. 10; Telmate Mot. 8. That result is simply a consequence of the fact that the two sets of rate caps are differently structured: the interim rate caps are uniform across all types and sizes of facilities, whereas the permanent rate caps are more finely calibrated to reflect the dissimilar cost characteristics of prisons and varying sizes of jails. *See supra* pp. 2, 4. More importantly, any potential effect on providers of the higher permanent rate caps for debit and prepaid calls from small jails and the temporarily higher caps for jail collect calls—which comprise a small fraction of the inmate calling market, *see 2015 Order*, 30 FCC Rcd at 12805–07 ¶¶86, 90—is offset by the considerably higher permissible rates under the interim rate caps for

⁵ Likewise, although inmate calling providers could seek a waiver of the interim rate caps as applied to intrastate calls from the FCC, *see* 47 C.F.R. § 1.3; *2015 Order*, 30 FCC Rcd at 12871–72 ¶219, none has suggested it has grounds for doing so.

⁶ Notably, that result is not unique to intrastate calls, yet there is no dispute that the interim rate caps apply to interstate calls. *See* Securus Mot. 1 & n.1; Telmate Mot. 4–5; GTL Mot. 2–3.

all other categories of calls. *Compare 2015 Order*, 30 FCC Rcd at 12922–23, App’x (adopting 47 C.F.R. § 64.6010) *with id.* at 12923, App’x (adopting 47 C.F.R. § 64.6030). The inmate calling providers hardly have grounds to complain when the effect of the partial stay is to permit them to charge much higher rates, overall, for interstate and intrastate calls during the pendency of this appeal than they would have been allowed if the Commission’s permanent rates had not been stayed.

Finally, the Commission recognized, in the *2015 Order*, a pressing need to curb exorbitant rates for intrastate inmate calls. *See, e.g., 2015 Order*, 30 FCC Rcd at 12768 ¶7 & n.28 (discussing the failure of “states to reform inmate calling within their jurisdictions,” the prevalence of “egregiously high” intrastate rates, and the necessity of FCC action). The record before the Commission supported reduced permanent rate caps on both interstate and intrastate inmate calling services. *See id.* at 12787–808 ¶¶48–92. At a minimum, the record plainly supports the generally higher rates permitted by the interim rate caps. Nor is there any reason to doubt that the Commission would have wanted the interim rate caps to cover intrastate calls if this Court stayed the permanent rate caps. *See id.* at 12899 ¶289 (“If any of the rules or regulations, or portions thereof . . . are declared invalid or unenforceable for any reason, it is our intent that the remaining rules shall be in full force and effect.”).

B. The movants have not demonstrated irreparable injury from the application of the interim rate caps to intrastate calls.

Securus and Telmate have also failed to show that they will be irreparably injured if the partial stay is not modified as they request. (In seeking to have the stay clarified, GTL makes no claim of harm if its request is denied.)

As we have explained, the interim rate caps will allow providers generally to charge far higher rates for inmate calling services during the pendency of this appeal than would the now-stayed permanent rate caps. And in light of the extensive record of excessive inmate calling charges before the Commission, providers have little entitlement to full absolution from limits on what they can charge for their intrastate calling services.

Securus nonetheless contends that it will sustain irreparable injury by reason of the extension of the interim rate caps to intrastate calling services because it has just “spent tens of thousands of person-hours to implement” the Commission’s *2015 Order*, Mot. 11; *see Smith Aff.* ¶¶4–6, and will now need “to go back and do all that over again” to comply with the interim rate caps for interstate calls, Mot. 12. It is utterly unclear why that should be. The interim rate caps are just that—“caps,” not prescribed rates. Thus, nothing in the Commission’s rules requires Securus to renegotiate contracts that currently comply with the Commission’s lower permanent rate caps. Any renegotiation costs incurred by Securus would be the result of its decision to seek to take advantage of the higher

interim rate caps, which would presumably improve, not injure, the company's overall financial position.

Admittedly, there are a few categories of inmate calling services provided to jails for which the maximum allowable rate under the permanent rate caps is greater than the interim rate caps. *See supra* pp. 4–6. But Securus has not shown that any need to renegotiate those rates (which do not take effect until June 20, 2016, *Public Notice* at 2), will cause it irreparable injury. Apart from the fact that “ordinary compliance costs are typically insufficient to constitute irreparable harm,” *Freedom Holdings, Inc. v. Spitzer*, 408 F.3d 112, 115 (2d Cir. 2005), Securus has made no attempt to demonstrate that such a limited category of renegotiation costs would be “certain and great,” much less threaten its business. *Wisc. Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985) (per curiam). And while Telmate complains that application of the interim rates to intrastate calls would result in lower caps for certain jail calls, Mot. 10, Telmate does not dispute that it can comply with those lower caps and that those caps would be offset by the higher rates permitted for calls from prisons and large jails.

C. Expanding the existing stay would harm third parties and the public interest.

Finally, expanding the Court's partial stay to enjoin the applicability of Section 64.6030 to intrastate calls would harm inmates and their families, as well as the public generally. As the Commission explained in the *2015 Order*, “over 80

percent of calls to and from correctional facilities are intrastate.” 30 FCC Rcd at 12768 ¶7. When left unregulated after the *2013 Order*, those rates remained stubbornly and “egregiously high in over half the states.” *Id.* Some commenters reported paying rates “as high as \$1 per minute” for intrastate calls. *Id.* at 12768 ¶7 n.28. Lower intrastate rates will make it easier for inmates to stay connected to their families, friends, and legal representatives; lessen the negative impact on the millions of children with an incarcerated parent; and reduce recidivism, among other societal benefits. *See id.* at 12766–67 ¶3. By contrast, a stay of the interim rate caps for intrastate calls would permit inmate calling providers, as to intrastate calls, and for the duration of this appeal, to continue extracting exorbitant payments from some of the most economically vulnerable members of our society.

CONCLUSION

For the foregoing reasons, the Court should deny the motions to modify, reconsider, or enforce this Court’s partial stay.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Sarah E. Citrin, hereby certify that on March 22, 2016, I electronically filed the foregoing Opposition of the Federal Communications Commission to Motions to Modify, Reconsider, or Enforce Stay with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

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