

111th CONGRESS
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H. R. 1133

To amend the Communications Act of 1934 to require the Federal Communications Commission to prescribe rules regulating inmate telephone service rates.

IN THE HOUSE OF REPRESENTATIVES

February 23, 2009

Mr. RUSH introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to require the Federal Communications Commission to prescribe rules regulating inmate telephone service rates.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Family Telephone Connection Protection Act of 2009'.

SEC. 2. FINDINGS.

The Congress finds that:

- (1) The telephone is the primary method by which individuals correspond and maintain contact with family members who are incarcerated in correctional institutions.
- (2) Except for emergency purposes, family members are not allowed to call people incarcerated in correctional institutions; incarcerated persons are typically allowed to call family members and other pre-approved individuals only through payphones physically located on the premises of correctional institutions.
- (3) Inmate telephone service in correctional institutions often is limited to collect calling.

(4) Regardless of whether the prisoners' calls are placed collect or through a debit account, the prisoners' family members typically pay for the calls, either through their telephone bills, in the case of collect calls received from prisoners, or by making deposits directly into prisoners' debit accounts.

(5) Innocent citizens are paying excessive telephone charges simply due to having a family member or loved one who is incarcerated.

(6) The rates for calls from correctional institutions are some of the highest rates in the United States, with some per-minute charges reaching \$1 and service or connection charges of \$3.95 per call.

(7) Information compiled by the Congress and the Federal Communications Commission shows that the high rates are due in part to the lack of competition between telephone companies that provide long distance inmate telephone service to correctional institutions.

(8) There are no competitive forces providing incentives for those carriers to lower prices or operate efficiently because, unlike the mass market, only one carrier is typically permitted to provide long distance inmate telephone service within each correctional institution.

(9) High calling rates also are due in part to commissions that carriers pay to correctional institution administrators for the exclusive right to provide long distance inmate telephone service in a correctional facility. In some cases, such commissions account for 50 percent or more of the total charges.

(10) The collection of such commissions by correctional institution administrators and state departments of correction based upon interstate telecommunications revenues is a burden on interstate commerce.

(11) Due to the lack of competition for telephone services within correctional institutions, families of people in prison, many of whom have low incomes, cannot choose the long distance carrier with the lowest calling rates and must pay the excessive rates charged by the carrier having the exclusive right to provide long distance service to the correctional institution from which the call originates.

(12) It is the policy of the United States to ensure that all Americans are afforded just and reasonable communications services, including those families that pay rates for inmate telephone service.

(13) It is clear from various studies that maintaining frequent and meaningful communications between people who are

incarcerated and family members is key to the successful social reintegration of formerly incarcerated individuals. Such contact reduces recidivism and facilitates rehabilitation, which in turn reduces crime and the future costs of imprisonment.

(14) Frequent communications between incarcerated persons and family members is burdened, and in some cases, prevented, by excessive inmate telephone service rates. Excessive inmate telephone service rates thus weaken the family and community ties that are necessary for successful reentry into society by persons who were formerly incarcerated and the reduction in crime resulting from successful reentry.

(15) The Commission has the expertise and authority to regulate inmate telephone service. Because parties to Commission rulemaking proceedings have raised issues regarding its authority to implement meaningful relief for excessive inmate telephone service rates, Congress finds it necessary and appropriate to reaffirm that the Commission has the authority to implement the types of relief set forth in this Act.

SEC. 3. RESTRICTIONS ON THE PROVISION OF INMATE TELEPHONE SERVICE.

(a) Definitions- Section 226(a) of the Communications Act of 1934 (47 U.S.C. 226(a)) is amended adding at the end the following new paragraphs:

` (10) The term `collect' or `collect call' refers to a telephone call from a person incarcerated in a correctional institution that is billed to the subscriber receiving the call.

` (11) The term `commission' refers to a fee or other payment by a provider of inmate telephone service to an administrator of a correctional institution, department of correction, or similar entity, based upon, or partly upon, inmate telephone service revenue.

` (12) The term `debit account' refers to the payment of inmate telephone service through a prisoner's prepaid card or other account, which can be accessed only through an access code, personal identification number, or similar identifier.

` (13) The term `inmate telephone service' includes the provision of telephone service enabling persons incarcerated in correctional institutions to originate interstate calls at payphones or other telephones that are designated for prisoners' personal use, regardless of whether the calls are collect, paid through a debit account, or paid through any other means.

` (14) The term `provider of inmate telephone service' means any common carrier that provides inmate telephone service or any other person determined by the Commission to be providing inmate telephone service.'

(b) Regulations- Section 226 is further amended--

- (1) by redesignating subsection (i) as subsection (k); and
- (2) inserting after subsection (h) the following new subsections:

` (i) Regulation of Inmate Telephone Service-

` (1) RATES- In order to ensure that charges for inmate telephone service are just, reasonable, and nondiscriminatory, the Commission shall consider, either in a rulemaking proceeding that is pending as of the date of enactment of the Family Telephone Connection Protection Act of 2009 or in a new rulemaking proceeding, the following types of regulation of inmate telephone service, all of which are within the Commission's jurisdiction and authority:

- ` (A) prescribing a maximum uniform per-minute compensation rate;
- ` (B) prescribing a maximum uniform service connection or other per-call compensation rate;
- ` (C) prescribing variable maximum compensation rates depending on such factors as carrier costs, the size of the correctional facility served, and other relevant factors identified by the Commission;
- ` (D) requiring providers of inmate telephone service to offer both collect calling and debit account services;
- ` (E) prohibiting the payment of commissions by providers of inmate telephone service to administrators of correctional institutions, departments of correction, and similar entities; and
- ` (F) requiring administrators of correctional institutions, departments of correction, and similar entities to allow more than one provider of inmate telephone service to provide interstate inmate telephone service at a correctional institution in order that prisoners have a choice of such providers.

` (2) SCOPE- The regulations adopted by the Commission shall be technologically neutral and shall not jeopardize legitimate security and penological interests. To the extent the Commission regulations reduce or eliminate the revenue derived by administrators of correctional institutions, departments of correction, and similar entities from the receipt of commissions, such effects of Commission regulations shall not be considered

as jeopardizing or otherwise affecting legitimate security or penological interests.

` (3) DEADLINES AND PERIODIC REVIEW- The Commission shall prescribe regulations to implement the provisions of this subsection within one year after the date of enactment of the Family Telephone Connection Protection Act of 2009. The Commission shall review, on a triennial basis, the regulations promulgated under this subsection, including whether any Commission-established compensation rates should be modified.

` (4) STATE PREEMPTION- To the extent that any State requirements are inconsistent with the Commission's regulations affecting or pertaining to interstate inmate telephone service, including restrictions on the payment of commissions based upon interstate inmate telephone service revenues or earnings, the Commission's regulations on such matters shall preempt such State requirements.

` (j) Inmate Telephone Service Fully Subject to Sections 251 and 252-

` (1) IN GENERAL- Inmate telephone service is fully subject to the requirements of sections 251 and 252 of this Act.

` (2) RESTRICTION- No provider of inmate telephone service may block or otherwise refuse to carry a call placed by an incarcerated person on the grounds that the provider has no contractual or other arrangement with the local exchange carrier serving the intended recipient of the call or other common carrier involved in any portion of the transmission of the call.'.

END