

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)
)
) **WC Docket No. 12-375**
Rates For Interstate Inmate)
Calling Services)

**OPPOSITION TO PETITION TO HOLD
FURTHER RULEMAKING PROCEEDING IN ABEYANCE**

Martha Wright, Dorothy Wade, Annette Wade, Ethel Peoples, Mattie Lucas, Laurie Nelson, Winston Bliss, Sheila Taylor, Gaffney & Schember, M. Elizabeth Kent, Katharine Goray, Ulandis Forte, Charles Wade, Earl Peoples, Darrell Nelson, Melvin Taylor, Jackie Lucas, Peter Bliss, David Hernandez, Lisa Hernandez, Vendella F. Oura, along with The D.C. Prisoners' Legal Services Project, Inc., Citizens United for Rehabilitation of Errants, the Prison Policy Initiative, and The Campaign for Prison Phone Justice (jointly, the "Petitioners") hereby submit this Opposition to the Petition to Hold Further Rulemaking Proceeding in Abeyance filed by Securus Technologies, Inc. (the "Petition").¹

The Petition requests that the FCC suspend its efforts in connection with the Further Notice of Proposed Rulemaking, adopted on August 9, 2013, and released on September 26, 2013, in the above-captioned proceeding.² The sole basis for this request is the submission "forthcoming appeal" of the Report and Order adopted contemporaneously with the FNPRM in

¹ The Petition was filed on October 22, 2013. Pursuant to Section 1.45(d) of the FCC's rules, this Opposition is filed within 7 days of the submission. See 47 C.F.R. § 1.45(d) (2013) ("Oppositions to a request for stay of any order or to a request for other temporary relief shall be filed within 7 days after the request is filed. Replies to oppositions should not be filed and will not be considered.") (emphasis added).

² *Rates for Interstate Inmate Calling Services*, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-113, rel. Sept. 26, 2013 (2013) (the "FNPRM"). As discussed in more detail *infra*, the FNPRM has yet to be published in the Federal Register.

this proceeding.³ The Petition notes that this “forthcoming appeal” will succeed on the merits, and therefore, the FCC should not expend its resources with respect to the FNPRM. *Id.* As discussed herein, the Petition must be dismissed.

First, the Petition is premature. As of the submission of this Opposition, the FNPRM has yet to be published in the Federal Register. As such, the dates for submitting comments and reply comments have not been established. Therefore, what the Petition seeks to “hold in abeyance” has yet to occur.

In fact, the Petition is based on two additional actions that have yet to occur as well. First, the Petition indicates that a court appeal of the Report and Order will be forthcoming. As with the FNPRM, the Report and Order adopted on August 9th has yet to be published in the Federal Register, and there the Petition failed to provide any evidence that an appeal of the Report and Order has been filed. While there have been press releases alleging that appeals may be filed,⁴ it is premature to ask the FCC to hold a proceeding in abeyance before the actual FNPRM is published in the Federal Register and an appeal is filed.

Second, the Petition states that the FNPRM will become moot because (1) once the Report and Order is released and (2) once an court appeal is filed, the court will either remand or vacate the Report and Order. While the Petitioners can appreciate the confidence articulated in the Petition as to the ultimate success of this future court filing, there is simply no basis for issuing an order holding this proceeding in abeyance before any of the predicate actions have occurred.

³ *Petition*, pg. 1.

⁴ *See Press Statement*, dated August 13, 2013 (“This drive by the FCC to reduce what inmates pay for calling at any cost may lead to deaths of inmates, witnesses, friends/family members of victims, and of officers...I lay that responsibility directly at the feet of the FCC...and believe that we will defeat it in the Courts.”) (<http://www.prnewswire.com/news-releases/fcc-seeks-to-implement-below-cost-inmate-calling-rates-eliminate-interstate-facility-commissions-and-remove-programs-to-provide-inmate-welfare-and-victims-assistance-programs-the-end-result-will-be-weaker-prison-jail-security--219469231.html>) (emphasis added).

Instead, the purpose of the FNPRM, or, indeed, of any rulemaking proceeding, is to develop a record that will allow the FCC to adopt appropriate rules. In fact, one of the issues on which the FCC seeks comment is the very question of whether the Commission has legal authority to adopt appropriate rules governing intrastate ICS calling rates, and what the sources of that legal authority might be. As a result, the Petition's assertion that the FCC should refrain from developing such a record essentially represents a challenge to the FCC's underlying rulemaking authority.

Moreover, the cases cited in the Petition are wholly inapposite. These cases merely demonstrate that the FCC has, in its discretion and where the balance of interests warranted such action, held applications, petitions or waiver requests in abeyance pending the outcome of a rulemaking proceeding that would change the rules governing those applications.⁵ However, the Petition fails to cite any case where the FCC has held an entire rulemaking proceeding in abeyance pending the resolution of an appeal that has yet to even be filed, let alone docketed, briefed, argued or decided.


Further, there is no public interest justification for the FCC taking such action. Any party opposing further reform will have every opportunity to participate in the next phase of this proceeding, and influence the rules eventually adopted by the FCC. The appropriate approach is not, however, for this important proceeding to grind to a halt before even the FNPRM is published in the Federal Register, and a court appeal is filed.

⁵ See *Donald J. Elardo, Esq. and Stephen C. Garavito, Esq.*, 9 FCC Rcd 7912 (1994) (direct correlation between determination of liability and determination of amount of damages); See *American Communications Services, Inc.*, 14 FCC Rcd 21,579, 21,581 (1999) (declining to apply new rule before FCC "resolves certain outstanding issues regarding the operation" of the new rules); See *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Opinion, 12 FCC Rcd 7847, nt.2 (1997) (delaying action on petitions for reconsideration in one proceeding while FCC conducts rulemaking proceeding that may render the petitions moot); See *Amendment of Parts 15 and 90 of the Commission's Rules to Provide Additional Frequencies for Cordless Telephones*, 10 FCC Rcd 5622, 5627 (1995) (holding petitions for reconsideration in abeyance while FCC adopted rules to render petitions moot).

Finally, it bears mentioning that the same parties that seek to hold the instant proceeding in abeyance at the FCC have submitted similar requests in state dockets requesting that state commissions hold their proceedings in abeyance.⁶ This stacking of petitions of abeyance, each pointing to the other, and both relying on a filing that has yet to occur, is both logically unsound, and unsupported by any applicable legal precedent.

Therefore, it would not serve the public interest to delay this proceeding based on the speculative claims asserted in the Petition. Instead, further delay of this proceeding after more than decade of waiting for the FCC to act on the Wright Petition will only serve to perpetuate the great harm caused to millions of incarcerated persons and their families. Thus, Petitioners oppose the Petition, and respectfully request that the FCC deny the request as both premature, and legally unsustainable.

Respectfully submitted,

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October 29, 2013

⁶ See Exhibit A.

EXHIBIT A

October 18, 2013

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BY FEDERAL EXPRESS

Catrice C. Williams, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

Re: Petition Of Recipients Of Collect Calls From Prisoners at Correctional Institutions In Massachusetts Seeking Relief from the Unjust And Unreasonable Cost of such Calls (“Petition”) – Docket No. 11-16

Dear Secretary Williams:

In accordance with 220 CMR Section 1.02:(5), enclosed for filing in the referenced Docket are an original and three (3) copies of Securus Technologies, Inc.’s Motion To Hold Proceeding In Abeyance.

Copies of the foregoing document are simultaneously being served on all parties listed on the official Service List issued by the Department.

An extra copy of each filing is enclosed to be stamped “received” or “filed” and returned in the enclosed envelope.

Please direct any questions concerning this filing to the undersigned at 202-456-5292 or pbesozzi@pattonboggs.com.

Respectfully submitted,


Paul C. Besozzi
Counsel for Securus Technologies, Inc.

4818-6088-9105

**THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS
AND CABLE**

**Petition Of Recipients Of Collect Calls
From Prisoners at Correctional Institutions
In Massachusetts Seeking Relief from the Unjust
And Unreasonable Cost of such Calls**

DTC Docket No. 11-16

MOTION TO HOLD PROCEEDING IN ABEYANCE

In accordance with 220 CMR 1.02:(5), Securus Technologies, Inc. (“Securus” or “Company”), acting through undersigned counsel, hereby moves the Department of Telecommunications and Cable (“DTC” or “Department”) to immediately hold in abeyance the investigation initiated by the Hearing Officer Interlocutory Ruling, dated September 23, 2013, in this docket (“Ruling”) pending the resolution of the Federal Communications Commission’s (“FCC” or “Commission”) ongoing rulemaking *In the Matter of Rates for Interstate Inmate Calling Services*.¹ The Department should stay all further actions in this Docket No. 11-16, including actions relating to the appeal of the Ruling filed by the Petitioners on October 16, 2013.²

The FCC is considering identical issues regarding intrastate inmate calling services (“ICS”) that the Ruling noted for investigation and on which the Petitioners, and their expert, have urged the FCC to act. These include the per-minute charge issue which the Ruling declined to investigate, but is the subject of the PLS Appeal.

¹*In the Matter of Rates for Interstate Inmate Calling Services, Report and Order and Further Notice of Proposed Rulemaking*, FCC 13-113, WC Docket No. 12-375 (released September 23, 2013) (“ICS Order”). The Further Notice of Proposed Rulemaking component is hereinafter referred to as the FNPRM.

²D.T.C. 11-16, *Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls*, Petitioners’ Appeal (filed Oct.16, 2013) (“ PLS Appeal”). This would include the requirement that responses to the Appeal be filed by October 28, 2013.

Securus respectfully submits that there is ample Department precedent, some of which was cited in the Ruling itself, for granting this Motion.³ The Department should not be required to expend resources addressing the same issues being considered by the FCC, creating the prospect that the Department would have to “redo” whatever decision the Department might render.

In further support of its Motion, Securus sets forth the following grounds:

1. The Ruling

The Ruling initiated an investigation that would examine following issues:

- a. Maintaining the per-call surcharge and/or adjusting the maximum rate permitted per call.⁴
- b. Service and other fees imposed by ICS providers.⁵
- c. Quality of service issues.⁶
- d. Certain billing practices.⁷

2. The FCC’s ICS Order

On September 26, 2013 – three days after the Ruling - the FCC released its ICS Order, broadly addressing the rates and practices for interstate ICS, while opening the FNPRM to examine “reforming intrastate ICS rates and practices.”⁸

The FCC established a detailed regime for regulating rates for interstate ICS, including addressing per-call and per-minute charges, ancillary non-call-related charges/fees and site

³ See Ruling, at pp. 12-13.

⁴ Ruling, at p. 26. The Ruling bases its decision on allegedly conflicting cost changes, including with respect to those costs uniquely associated with ICS. See *id.*, at p. 25.

⁵ Ruling, at pp. 27-28.

⁶ Ruling, at p. 30.

⁷ Ruling, at p. 31.

⁸ ICS Order, ¶128. As noted by Global Tel* Link in a similar motion filed in this proceeding on October 17, 2013, the FCC’s ICS Order resulted from a lengthy record developed over a decade involving comments on rates, cost and revenue data, commission payments and rate cap proposals, and included filings by representatives of inmate families and interested groups and by the PLS’s expert, Mr. Dawson. Motion To Hold Proceeding In Abeyance, Global Tel*Link Corporation, D.T.C. 11-16, October 17, 2013, at p. 2.

commissions. The Order imposed per-minute rate caps and, within those caps, established “safe harbor” levels which are presumptively compliant with the cost-based rate requirements that the FCC approved. Those requirements also were applied to ancillary charges/fees. The FCC examined and analyzed ICS costs and directed the filing of additional cost data.

Petitioners were active participants before the FCC, asking the FCC in its rulemaking to address some of the very same issues being considered by the Department herein.⁹ For example, they urged the FCC to eliminate per-call surcharges.¹⁰ They raised service quality issues.¹¹

The FNPRM undertakes to reform both local rates and intrastate long distance rates for ICS. Specifically, the FCC asserts that it believes that “intrastate reform is necessary and that the Commission has the authority to reform intrastate ICS rates.”¹² Further, the Commission claims that “section 276 [of the Communications Act of 1934, as amended, (47 U.S.C. § 276)] affords the Commission broad discretion to regulate intrastate ICS rates and practices... and to preempt inconsistent state requirements.”¹³ Therefore, the FCC seeks comment on “reforming intrastate rates and practices.”¹⁴

The FCC relies on this statutory authority and judicial precedent to conclude that it can regulate intrastate “end-user rates.”¹⁵ It also tentatively precludes recovery of “site commissions” through intrastate rates and seeks comment on that conclusion.¹⁶ The Commission seeks comment on “per-call charges” and whether there are “any costs that are uniquely incurred” that could not be

⁹ *See, e.g.*, Comments of Prisoner’s Legal Services of Massachusetts, filed March 25 2013, Docket No. WC 12-375, including the Amended Affidavit of Douglas A. Dawson, the same such Amended Affidavit filed in this proceeding (“PLS FCC Comments”).

¹⁰ PLS FCC Comments, at pp.14-15.

¹¹ ICS Order, ¶85, n. 320, ¶158, n. 500.

¹² ICS Order, ¶129.

¹³ ICS Order, ¶135.

¹⁴ ICS Order, ¶129.

¹⁵ ICS Order, ¶137.

¹⁶ ICS Order, ¶133.

recovered through a per-minute charge alone.¹⁷ It raises the prospect of minimum quality of service standards for ICS services.¹⁸ It seeks to ensure that “ancillary charges” are just and reasonable.¹⁹ Finally, it seeks comment on per-minute rate structure (\$0.07 per minute) which would be distance insensitive and apply to both interstate and intrastate calling.²⁰

3. The PLS Appeal

The PLS Appeal only further highlights the overlap between the FCC proceeding and what the Petitioners urge the Department to add to the investigation. The Petitioners make constant reference to the ICS Order, include it as an Exhibit with their Appeal, attach materials and information submitted by their expert Mr. Dawson with the FCC in an effort to have the Department follow the FCC’s path with respect to per-minute rates and “unique costs”, including the FCC’s consideration of a distance and jurisdictionally insensitive per-minute rate of \$0.07.²¹

4. The Department Precedent Supports Grant Of The Motion Under The Circumstances.

The Ruling itself recognizes that Department proceedings should be “stayed pending the outcome of FCC proceedings” in certain cases, particularly where failure to do so would “run the risk of adopting” rules that “subsequently may be deemed inconsistent with the FCC’s rules” and “require the Department to conduct a second proceeding.”²² As the Department observed, “such

¹⁷ ICS Order, ¶¶161-162.

¹⁸ ICS Order, ¶178.

¹⁹ ICS Order, ¶168.

²⁰ ICS Order, ¶155.

²¹ PLS Appeal, at pp. 2, 3, 6-8.

²²Ruling, at p. 13, citing D.T.E. 01-20, *Investigation by the Dept of Telecomms. & Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements & Combinations of Unbundled Network Elements, & the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/ b/ a Verizon Mass. Resale Servs. in the Commv. of Mass.*, Interlocutory Order on PartB Motions (Apr. 4, 2001), at p. 20 (“01-20 Interlocutory Order”))

administrative inefficiency would not benefit the Department, the parties or the public interest.”²³


The goal of completing a proceeding does not trump such “administrative efficiency or the need to adapt schedules” under such circumstances.²⁴ Petitioners have ample opportunity to raise the issues, and have raised them, in the FCC proceeding. They can reasonably be expected to continue to do the same in response to the FNPRM. Under the circumstances granting this Motion is wholly appropriate.

WHEREFORE, for all of the foregoing reasons, Securus respectfully moves that the Department hold this proceeding in abeyance, including the requirement to respond to the PLS Appeal, pending the resolution of the FCC’s ongoing rulemaking in Docket No. WC-12-375. If the Department denies this Motion in whole or in part, Securus would request that interested Parties be given ten (10) days after such denial to respond to the PLS Appeal.

Respectfully submitted

SECURUS TECHNOLOGIES, INC.

By



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202-457-5292

Dated: October 18, 2013

²³ 1-20 Interlocutory Order, at p.20.

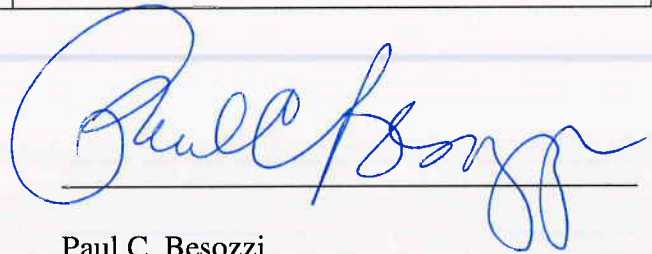
²⁴ 01-20 Interlocutory Order, at p.20; *see also* D.T.C. 11-4, *Pet. of Safari Communications, Inc. for Designation as an Eligible Telecommunications Carrier on a Wireless Basis*, Order on Dismissal without Prejudice (March 1, 2013), at pp. 2-3 (Department suspended procedural schedule in Department proceeding in December 2011 pending the issuance of FCC Order to reform the Lifeline and Linkup programs “in the interest of regulatory efficiency.”); Ruling, at p. 12.

CERTIFICATE OF SERVICE

I, Paul C. Besozzi, hereby certify that on this 18th day of October, 2013, the foregoing “Motion To Hold Proceeding In Abeyance” on the parties listed on the Service List below issued by the Department by the method listed under each such party:

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Paul C. Besozzi

**Before the
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Petition of Recipients of Collect Calls from)
Prisoners at Correctional Institutions in) **D.T.C. 11-16**
Massachusetts Seeking Relief from the)
Unjust and Unreasonable Cost of such Calls)

MOTION TO HOLD PROCEEDING IN ABEYANCE

Global Tel*Link Corporation (“GTL”), by its attorneys and pursuant to 220 C.M.R. § 1.04(5), respectfully moves the Massachusetts Department of Telecommunications and Cable (“Department”) to hold this proceeding in abeyance pending resolution of similar matters before the Federal Communications Commission (“FCC”). Specifically, GTL requests that the Department stay the current filing deadlines and any further action on the appeal filed by Petitioners as well as any further action on the Department’s planned investigation.¹ In support of this Motion, GTL states:

1. On August 31, 2009, Prisoners’ Legal Services of Massachusetts (“PLS”) and several “family members, loved ones, legal counsel, and others residing in Massachusetts who receive and pay for telephone calls from prisoners” (collectively, “Petitioners”) filed a petition seeking relief from what they claim are unjust and unreasonable rates for inmate calling service (“ICS”) in Massachusetts (“Petition”). Petitioners amended their Petition on May 18, 2010 and again on April 27, 2011. GTL and Securus Technologies, Inc. (“Securus”) (collectively, “Respondents”) requested that the Department dismiss the Petition.

2. On September 23, 2013, the Hearing Officer issued an Interlocutory Ruling²

¹ Pursuant to the Hearing Officer’s October 16, 2013 ruling, responses to the appeal are now due by October 28, 2013. To date, no filing deadlines or other timelines have been established for the Department’s investigation.

² D.T.C. 11-16, *Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls*, Hearing Officer Interlocutory Ruling (Sept. 23, 2013) (“*Interlocutory Ruling*”).

opening an investigation into: the per-call surcharge assessed by ICS providers; the tariffed service and other fees assessed by ICS providers; the telephone service quality provided by Respondents, including the frequency of dropped calls and line noise; and Respondents' billing practices. The Interlocutory Ruling dismissed Petitioners' request to investigate: the usage rate component of the ICS rate-setting mechanism; the frequency and content of recorded warning messages; and the availability and upkeep of telecommunications equipment at correctional facilities.

3. On September 26, 2013, the FCC issued a Report and Order and Further Notice of Proposed Rulemaking ("FNPRM") in its ongoing proceeding to review the reasonableness of current ICS rates and the steps needed to ensure reasonable ICS rates going forward.³ The decision was the result of the FCC's 2002 request for comments on ICS rates, commissions, cost and revenue data, and proposed methods to lower ICS rates, as well as a 2003 petition filed by families of inmates asking the FCC to establish nationwide rate caps for ICS.⁴

4. The Report and Order establishes interim rate caps and safe harbors for interstate ICS rates and requires a mandatory data collection from ICS providers. The new rules adopted by the Report and Order will be effective 90 days after the Report and Order is published in the Federal Register.

5. The FNPRM seeks additional data to allow the FCC to establish further and permanent reforms for interstate ICS rates, as well as reforms for intrastate ICS rates. The FCC finds in the FNPRM that "intrastate reform is necessary" and the FCC "has the authority to

³ WC Docket No. 12-375, *Rates for Interstate Inmate Calling Services*, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-113 (rel. Sept. 26, 2013) ("*Order and FNPRM*").

⁴ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd 3248 (2002); CC Docket No. 96-128, Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in a Pending Rulemaking, at 3 (filed Nov. 3, 2003); CC Docket No. 96-128, Petitioners' Alternative Rulemaking Proposal Regarding Issues Related to Inmate Calling Services (filed Mar. 1, 2007).

reform intrastate ICS rates.”⁵ In addition to addressing intrastate ICS rates, the FNPRM seeks information on the adoption of unified interstate and intrastate ICS rates, ancillary charges, quality of service issues, and billing issues. Comments on the FNPRM are due 30 days and 45 days after the FNPRM is published in the Federal Register.

6. PLS was a participant in the FCC’s proceeding. It argued that FCC action was needed to “provide national leadership for state regulatory agencies in Massachusetts,” “to encourage states that have not yet acted, such as Massachusetts,” and to “establish guidance as our state regulatory agency evaluates intrastate rates.”⁶ PLS requested that the FCC take action on many of the same issues PLS has raised before the Department. In prior filings to the Department and the FCC, PLS has emphasized that the FCC’s ultimate actions regarding ICS rates and services are important and influential to the Department’s review of these same issues.⁷

7. Petitioners’ recent appeal further supports holding this proceeding in abeyance pending action by the FCC.⁸ Petitioners’ appeal is based on data submitted as part of the FCC’s ongoing ICS rates proceeding, and they urge the Department to follow the lead of the FCC. They note that the FCC is considering adopting a “flat, distance-insensitive ICS rate”⁹ and rely on the FCC’s *proposed* action to support their position in this proceeding that the per-minute ICS

⁵ *Order and FNPRM* ¶ 129.

⁶ WC Docket No. 12-375, Comments of Prisoners Legal Services of Massachusetts, 1, 12, 19 (filed Mar. 25, 2013) (“PLS FCC Comments”).

⁷ *See generally* PLS FCC Comments; *see also* D.T.C. 11-16, *Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls*, Letter from Counsel for Petitioners (filed Apr. 26, 2013) (noting the “relevant findings” in the FCC’s ICS proceeding).

⁸ D.T.C. 11-16, , *Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls*, Petitioners’ Appeal (filed Oct. 16, 2013) (“Petitioners’ Appeal”).

⁹ Petitioners’ Appeal at 1.

rates for Massachusetts should be revised.¹⁰ At the same time, the Petitioners concede that the FCC is continuing to collect data in order to develop a permanent rate structure,¹¹ but ask Department to rely on the FCC's analysis, which is still being formulated in the FNPRM.¹² Thus, Petitioners' recent appeal filing further demonstrates the interplay between the FCC's ongoing ICS proceeding and the issues set for investigation here.

8. The Department, therefore, should hold the instant proceeding in abeyance, including any filing deadlines or action associated with Petitioners' appeal, pending the outcome of the FCC's ongoing review of ICS rates. The issues set for review in the FCC's FNPRM are the same issues raised by Petitioners and set for investigation by the Department in the *Interlocutory Ruling*.

9. As the Hearing Officer recognized in the *Interlocutory Ruling*, the Department previously has "stayed proceedings pending the outcome of FCC proceedings when it would be unreasonably onerous for the Department to issue a decision without preceding action by the" FCC.¹³ In this case, the Department runs the risk of adopting rules governing ICS that subsequently may be deemed inconsistent with the FCC's determinations, which would require the Department to conduct additional proceedings. This type of "administrative inefficiency would not benefit the Department, the parties, or the public interest."¹⁴

¹⁰ Petitioners' Appeal at 4-5.

¹¹ Petitioners' Appeal at 7.

¹² Petitioners' Appeal at 8.

¹³ *Interlocutory Ruling* at 13 (citing D.T.E. 01-20, *Investigation by the Dep't of Telecomms. & Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements & Combinations of Unbundled Network Elements, & the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Mass. Resale Servs. in the Commw. of Mass.*, Interlocutory Order on Part B Motions (Apr. 4, 2001) ("01-20 Interlocutory Order")).

¹⁴ *01-20 Interlocutory Order* at 8.

10. In addition, while the FCC's Report and Order provides some indication of the "general approach contemplated by the FCC," the Department cannot be sure that the FCC will not "alter that approach in its to-be-issued rules" or as the result of court proceedings in response to the Report and Order.¹⁵ The Department previously has stayed proceedings in light of possible action by the FCC or the courts that would affect the proceeding, and has let those "[e]vents . . . inform [its] course of action."¹⁶ It should do so here.

Accordingly, GTL respectfully moves the Department to hold the instant proceeding, including the current filing deadlines and any further action on Petitioners' appeal, in abeyance pending the outcome of the FCC's ongoing review of ICS rates.

Respectfully submitted,

GLOBAL TEL*LINK CORPORATION

/s/ Chérie R. Kiser

Dated: October 17, 2013

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¹⁵ 01-20 Interlocutory Order at 8.

¹⁶ D.T.E. 03-60, *Proceeding by the Dep't of Telecomms. and Energy on its own Motion to Implement the Requirements of the Federal Comms. Comm'n Triennial Review Order Regarding Switching for Mass Market Customers*, Interlocutory Order on Motion to Stay of Verizon New England, Inc. d/b/a Verizon Massachusetts, 15, 17 (Apr. 4, 2004).

CERTIFICATE OF SERVICE

I, Angela F. Collins, certify that on this 17th day of October 2013, I served a copy of the foregoing Motion to Hold Proceeding in Abeyance on the following via the method indicated:

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I hereby certify that, on October 29, 2013, the forgoing Opposition was served via electronic mail on the following persons:

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