



December 17, 2021
By ECFS

Marlene Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

RE: National Association of State Utility Consumer Advocates Comments
WC Docket No. WC 12-375.

Dear Ms. Dortch,

The National Association of State Utility Consumer Advocates (NASUCA)¹ submits these brief comments in reply to certain comments submitted by other commenters on September 27, 2021.

First, NASUCA supports the comments that oppose the inclusion of security and surveillance costs in the rate-setting process. See *Worth Rises*; *United Church of Christ and others* at 12-14; *Prison Policy Initiative* at 18. Although correctional facilities certainly have security and investigatory needs, the costs associated with meeting those needs cannot justly and reasonably be funded through the incarcerated person calling service rates.

Second, although it is possible that alternative rate structures like bundled, unlimited, or subscription service plans could offer incarcerated persons and their families greater value than the rate structures required by the Commission's current rules, before the Commission permits the use of alternative rate structures there should be the requisite degree of study, public comment, and adopted regulatory controls. The Commission should not permit the use of

¹ NASUCA is a voluntary association of 59 consumer advocates. NASUCA members represent the interests of utility consumers in 44 states, the District of Columbia, Puerto Rico, Barbados and Jamaica. NASUCA is incorporated in Florida as a non-profit corporation. NASUCA's full members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General's office). NASUCA's associate and affiliate members also represent the interests of utility consumers but are not created by state law or do not have statewide authority. Some NASUCA member offices advocate in states whose respective state commissions do not have jurisdiction over certain telecommunications issues.

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alternative rate structures “immediately.” See *Global Tel*Link Corp.* at 17; *Securus Technologies, Inc.* at 11-13. Incarcerated person calling services are “a prime example of market failure.” *Global Tel*Link Corp. v. FCC*, 866 F.3d 397, 404-05 (D.C. Cir. 2017). Historically, absent adequate regulatory controls, the rates for such services have been excessive, with substantial and damaging social consequences. *Id.* No matter the rate structure, adequate controls are important. As these proceedings attest, the development of such controls takes time.

Third, although the issue is more for future rulemaking proceedings, NASUCA urges the Commission at an early opportunity to consider and adopt appropriate regulations for video calls. The *Global Tel* decision holds only that the Commission had not provided an adequate justification for its earlier video visitation services reporting requirement. The decision did not hold that an appropriate justification could not be provided. *Id.* at 415. With the increasing prevalence of video calling throughout the entire general population, it is important that the regulatory structures for calling in the correctional facility setting be kept up to date.

We thank the Commission for its consideration of these and other issues.

Respectfully submitted,

David Springe
Executive Director
NASUCA
8380 Colesville Road, Suite 101
Silver Spring, MD 20910
301-589-6313