

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application)	
of Inmate Calling Solutions, LLC)	<u>Case No. XE-2011-0065</u>
d/b/a ICS for Waiver of)	
Commission Rules and Statutes)	

**PUBLIC COUNSEL’S OBJECTION TO WAIVER OF CERTAIN RULES AND
REQUEST FOR HEARING**

COMES NOW the Office of the Public Counsel for its Objection to Waiver of Certain Rules and Request for Hearing states as follows:

1. On September 3, 2010, Inmate Calling Solutions, LLC d/b/a ICS (ICS) filed an application requesting that the Missouri Public Service Commission waive certain Commission rules and statutory provisions. ICS states that it is filing its application pursuant to Section 392.420 RSMo Cum. Supp. 2009.¹ ICS was certificated to provide interexchange calling services in the State of Missouri effective May 2, 2004 pursuant to an order issued in Case No. XA-2004-0478.

2. ICS requests waiver of the following rules:

- 4 CSR 240-3.550 (4), (5)(A) Held order records, quality of service reports
- 4 CSR 240-4.020(2)
- 4 CSR 240-10.020 Depreciation Records
- 4 CSR 240-30.040 Uniform System of Accounts
- 4 CSR 240-32.060 Engineering and maintenance
- 4 CSR 240-32.070 Quality of Service
- 4 CSR 240-32.080 Service objectives and surveillance levels
- 4 CSR 240-33.040(1-3) and (5-10) Billing and payment standards
- 4 CSR 240-33.045 Clear identification and placement of charges on bills
- 4 CSR 240-33.080(1) Identify company name and toll-free number on bills

¹ Section 392.420 provides that the Commission may grant waivers “in connection with the issuance or modification of a certificate.” ICS is not seeking either the issuance or modification of a certificate, and thus it is not readily apparent that ICS may seek, or that the Commission may grant, the requested waivers in this stand-alone proceeding.

4 CSR 240-33.130(1), (4) and (5) Operator service requirements

ICS also requests waiver of the following statutes:

- 392.210.2 Accounting requirements (system of accounts)
- 392.240.1 Reasonableness of rates
- 392.270 Accounting requirements (valuation of property)
- 392.280 Accounting requirements (depreciation rates/accounts)
- 392.290 Issuance of stocks, bonds and other indebtedness
- 392.300 Transfer of property and ownership of stock
- 392.310 Approval of issuing stocks, bonds and other indebtedness
- 392.320 Certificate of Commission to be recorded-stock dividends
- 392.330 Accounting requirements (proceeds of sales of stock, bonds, notes, etc.)
- 392.340 Company reorganization

3. Public Counsel notes that a number of the requested waivers have already been granted to ICS, and while granting them again in response to this application would be redundant, Public Counsel does not object to such action. Public Counsel also does not object to a number of other requested waivers because they are appropriate under the circumstances. In light of the nature of the service offered by ICS, Public Counsel objects to waiver of the Commission's billing and operator service rules because such waiver is potentially detrimental to consumers and contrary to the public interest. Public Counsel objects to waiver of the following rule provisions:

- 4 CSR 240-33.040(1-3) and (5-10) Billing and payment standards
- 4 CSR 240-33.045 Clear identification and placement of charges on bills
- 4 CSR 240-33.080(1) Identify company name and toll-free number on bills
- 4 CSR 240-33.130(1), (4) and (5) Operator service requirements

4. ICS provides automated operator assisted calling services for inmates and other incarcerated persons in correctional facilities in Missouri. ICS contracts with correctional institutions to provide restricted, operator assisted, outbound calling from inmates to approved contacts such as family members, friends or legal counsel. Charges for the calls may be billed directly to the called party, may be billed to the called party as a charge appearing on the called

party's local telephone bill, or may be paid through a prepaid arrangement between ICS and either the inmate or the called party.

5. Calls initiated in correctional institutions are not subject to the same competitive forces that have become common in the long distance and operator service markets. Inmate calls are blocked from 800 numbers and 10-10 services that might otherwise be used to access alternative carriers. Without the benefit of competitive choice, the called party that may be billed for the call is particularly captive and vulnerable to carrier billing practices. Called parties may not have the same familiarity with ICS as they have with their local carrier or presubscribed carrier, and this unfamiliarity may lead to greater confusion or more difficulty in inquiring about billed charges.

6. The Commission's billing and operator service rules ensure that customers are provided with basic contact information for service providers, are informed about charges in advance and are billed according to minimum standards. ICS provides an important service but also a service that is unique in that it limits competitive choice for the called party. Absent the consumer protections afforded by competitive choice the Commission's billing and operator service rules should not be waived.

WHEREFORE, Public Counsel respectfully requests that the Commission schedule an evidentiary hearing for the purpose of determining whether to grant the waivers contested herein.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Lewis R. Mills, Jr.

By: _____

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I hereby certify that a copy of the foregoing has been emailed this 17th day of September 2010 to:

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