

May 31, 2019

The Honorable Lorena Gonzalez
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0080

RE: AB 1366 – Oppose Unless Amended

Dear Assembly Member Gonzalez:

We the undersigned organizations implore your office to amend your legislation to allow the California Public Utility Commission (CPUC) and other agencies of the state of California to regulate the rates charged for local in-state communications between incarcerated and non-incarcerated people when they use Voice over Internet Protocol (VoIP) or other communications technologies. Recent changes in federal authority to address the scourge of predatory rates for incarcerated people mean that A.B. 1366 would leave families, attorneys, and loved ones of incarcerated people unprotected against exorbitant rates.

Between 2012 and 2016, the Federal Communications Commission (FCC) intervened on the egregious practice of extreme interstate and intrastate rate charges families of incarcerated people were being forced to pay to stay in touch with incarcerated loved ones.¹ The record before the FCC documented these practices, which disproportionately impact low-income communities of color, including charges, in one case, of \$56 for a four minute call.² However, subsequent litigation by the prison phone industry against the FCC blocked the FCC's efforts to prevent predatory rates for intrastate calls, leaving it to the states to directly resolve this matter for calls within a single state.³

A.B. 1366 would extend, for an additional 10 years, a prohibition on California agencies from regulating VoIP, which is Internet-based telephone calling. As drafted, A.B. 1366 would prevent California from protecting consumers who communicate with incarcerated people because providers serving correctional institutions now rely significantly on VoIP services. In fact, Securus, one of the two largest providers (with 40% revenue share in the correctional communications market)⁴ relies exclusively on VoIP technology.⁵ Thus A.B. 1366 would immunize them against state regulation of their practices and rates. This is particularly problematic given recent developments in the courts which currently prevent the FCC from ensuring intrastate calls to incarcerated people are just and reasonable.

¹ Press Release, FCC Bars High Rates for Long Distance Phone Calls in Jails and Prisons Nationwide, Federal Communications Commission, Aug. 9, 2013.

² Inmate Calling Services, Second Report & Order, WC Docket 12-375 at n.4 (2015).

³ *Global Tel*link v. Federal Communications Com'n*, 866 F.3d 397 (D.C. Cir. 2017).

⁴ Wright Petitioners et al., Petition to Deny Merger of Securus Technologies and Inmate Calling Solutions, WT Docket 18-193, page 3 of Attachment A (July 16, 2018).

⁵ See, e.g., Securus Technologies Completes an Industry Record 35 Million Inmate Calls in June, 2017 on Voice Over Internet Protocol (VoIP) Secure Calling Platform (SCP) (July 6, 2017), <https://www.marketwatch.com/press-release/securus-technologies-completes-an-industry-record-35-million-inmate-calls-in-june-2017-on-voice-over-internet-protocol-voip-secure-calling-platform-scp-2017-07-06>.

Adoption of A.B. 1366 would leave families and loved ones of incarcerated people without any regulatory protection in California. A recent report by the Prison Policy Initiative documented the continuing problem of predatory rates in California jails, where the most expensive rate for a 15-minute call to or from jail in California is \$17.80 and the average rate is \$5.70.⁶ As you know, VoIP services (unlike traditional telephone service) is not volume-sensitive. It costs little more to offer unlimited calling as it does to offer only a few minutes of calling, as evidenced by the wide practice of unlimited inter-state and intra-state calling nationwide and in California. In light of this, the current rates are disgraceful.

In fact, the newest trend in state and local government is moving toward free calling for incarcerated people.⁷ We support SB 555 (Mitchell), which seeks to address this issue at the county facility level. SB 555 in its current form would drastically reduce the costs of communications for families with loved ones who are being held in county jail and juvenile facilities. We are concerned that if both SB 555 and AB 1366 are successful, AB 1366 will undercut the advancements made by SB 555 to protect some of California's most vulnerable consumers. Whether county facilities or individuals and families pay for communications, all deserve to be protected against exorbitant rates no matter what technology is used.

We appreciate your attention to our concerns. If you have any questions or wish to follow up on this letter, please do not hesitate to contact Cheryl A. Leanza of the United Church of Christ, OC Inc. at 202-904-2168 or cleanza@alhmail.com.

Sincerely,

Center on Race, Leadership and Social Justice
Free Press Action
Human Rights Defense Center
Media Justice
National Consumer Law Center, on behalf of its low-income clients
Prison Policy Initiative
United Church of Christ, OC Inc.

⁶ Peter Wagner and Alexi Jones, State of Phone Justice at (Feb. 2019), https://www.prisonpolicy.org/phones/state_of_phone_justice.html.

⁷ Tribune News Service, Inmates Will Get Free Phone Calls From Jail in New York City, *Governing* (May 3, 2019), <https://www.governing.com/topics/public-justice-safety/tns-free-calls-for-inmates-nyc.html>; Associated Press, Connecticut could become first state to make phone calls free for inmates, *NY Post* (May 14, 2019), <https://nypost.com/2019/05/14/connecticut-could-become-first-state-to-make-phone-calls-free-for-inmates/>.