



Federal Communications Commission
Washington, D.C. 20554

January 31, 2017

Mark J. Langer, Clerk
United States Court of Appeals
for the District of Columbia Circuit
333 Constitution Avenue, NW Room 5523
Washington, DC 20001

Re: *Global Tel*Link, et al.*, No. 15-1461 & consolidated cases

Dear Mr. Langer

As the Court is aware, argument is set in these cases on February 6. I will be presenting the Commission's argument in this matter.

The Order under review was adopted by a 3-2 vote on October 22, 2015. Since then, there have been significant changes in the composition of the Commission. In particular, two commissioners who voted for the Order recently have left the Commission (Commissioner Rosenworcel on January 3, 2017, and Chairman Wheeler on January 20, 2017). On January 23, 2017, Commissioner Pai was designated FCC Chairman.

As a result of these changes in membership, the two Commissioners who dissented from the Order under review—on the grounds that, in specific respects, it exceeds the agency's lawful authority—now comprise a majority of the Commission. See Dissenting statement of Commissioner Pai; see also Dissenting statement of Commissioner O'Rielly.

In particular, a majority of the current Commission does not believe that the agency has the authority to cap intrastate rates under section 276 of the Act. I am therefore informing the parties and the Court that we are abandoning, and I am not authorized to defend at argument, the contention—contained in Section I of our brief—that the Commission has the authority to cap intrastate rates for inmate calling services.

If the Court reaches the issue, we are also abandoning, and I am also not authorized to defend, the argument (contained in a portion of section III.B of the

brief) that the Commission lawfully considered industry-wide averages in setting the rate caps contained in the Order.

I will continue to defend at oral argument the significant remaining portions of the Order pursuant to the brief respondents filed in these cases.

Given that the government's position at argument has changed, the Commission has ceded ten minutes of its allotted argument time to Mr. Schwartzman, counsel for the "Wright Petitioner" intervenors, who will be prepared to defend all aspects of the Order.

Respectfully submitted,

/s/ David M. Gossett

David M. Gossett
Deputy General Counsel

cc: counsel of record per ECF

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

GLOBAL TEL*LINK, <i>et al.</i> ,)	
)	
Petitioners,)	
)	
v.)	No. 15-1461 and
)	consolidated cases
FEDERAL COMMUNICATIONS COMMISSION)	
and UNITED STATES OF AMERICA,)	
)	
Respondents.)	

CERTIFICATE OF SERVICE

I, David M. Gossett, hereby certify that on January 31, 2017, I electronically filed the foregoing Letter with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

/s/ David M. Gossett

David M. Gossett
Deputy General Counsel
Federal Communications Commission