

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE: SECURUS TECHNOLOGIES, LLC	DOCKET NO. TF-2019-0033
IN RE: INQUIRY INTO REGULATORY REQUIREMENTS FOR ALTERNATIVE OPERATOR SERVICES COMPANIES	DOCKET NO. NOI-2019-0001

**ORDER REQUIRING FILING OF REVISIONS TO REVISED TARIFF AND GRANTING  
CONFIDENTIAL TREATMENT**

**PROCEDURAL BACKGROUND**

On June 24, 2019, Securus Technologies, LLC (Securus), an inmate calling service (ICS) provider, filed responses to a Utilities Board (Board) order issued May 24, 2019, in Docket No. TF-2019-0033, in which Securus requested confidential treatment for information related to how it determined the rates charged at the correctional facilities where Securus provides ICS. On September 19, 2019, Securus filed a request in Docket No. NOI-2019-0001 for confidential treatment for its response to a question about rate setting for inmate calling.

On September 26, 2019, Prison Policy Initiative, Inc. (PPI), filed an objection to the request for confidential treatment in Docket No. NOI-2019-0001. On October 4, 2019, the Office of Consumer Advocate (OCA), a division of the Iowa

DOCKET NO. TF-2019-0033

PAGE 2

Department of Justice, filed comments that included a statement that OCA joined in PPI's objection to confidential treatment. On December 17, 2019, Securus filed a reply to PPI and OCA's objections.

On March 18, 2020, the Board issued an order requiring Securus to file a revised tariff consistent with the order. On June 18, 2020, the Board granted Securus an extension for filing the revised tariff. On July 16, 2020, Securus filed its revised tariff, contract amendments, and responses to Board questions in the June 18, 2020 order.

On August 4, 2020, OCA filed comments and an objection to provisions in the revised tariff. OCA, Global Tel\*Link Corporation (GTL), and PPI are parties to this docket.

On August 6, 2020, the Board issued an order scheduling a technical conference to review the revised tariff. On September 3, 2020, the technical conference was held as scheduled. The parties at the technical conference discussed the July 16, 2020 revised tariff. Based upon the information provided in the September 3, 2020 technical conference and a review of the July 16, 2020 revised tariff, the Board is issuing this order, which requires certain revisions to the July 16, 2020 revised tariff. This order also addresses the request for confidentiality filed by Securus in Docket Nos. TF-2019-0033 and NOI-2019-0001.

### **ANALYSIS OF JULY 16, 2020 REVISED TARIFF**

At the beginning of the technical conference, Securus made preliminary statements regarding specific issues that had been raised with the revised tariff. The Securus comments on provisions in the revised tariff will be addressed where those

DOCKET NO. TF-2019-0033

PAGE 3

sections of revised tariff are addressed. The specific provisions in the revised tariff addressed by the Board are set out below.

A. Original Sheets 5 and 6. This page includes the term “confinement” to reference facilities where Securus provides ICS. OCA has suggested substituting “correctional” for “confinement” throughout the revised tariff. This includes changing “Confinement Facility” to “Correctional Facility” in the defined terms on Original Sheet 6.

B. Original Sheet 11. Section 2.6.1(c) of the revised tariff states that consumer bills include, where applicable, “(i) the amount of the net charge (stated by category) for local transmission service, ancillary services, toll service, information service, sales and excise tax; (ii) the gross amount of the bill; and (iii) separate entries for total amounts current or in arrears.” This provision was discussed at the technical conference and it was agreed that certain of the listed information included on a customer’s bill is obsolete.

Specifically, the reference to “toll service” should be removed as inconsistent with ICS. In addition, the reference to sales and excise taxes may be accurate, but it does not appear to be complete because it does not include all taxes or fees that may be charged for inmate calls. Securus will be required to review this section and determine if it is complete and accurate for the charges that are included on a customer’s bill.

Section 2.6.2 provides that “Securus will add any tax or fee (e.g., any governmental assessment, fee, license, or other similar tax or fee imposed upon Securus)” on a per-call basis in addition to per-minute rates in the revised tariff. OCA has raised an issue in each ICS tariff docket, arguing that intrastate calls should be

DOCKET NO. TF-2019-0033

PAGE 4

subject to the same limitations on adding government required taxes and fees to customer bills as the Federal Communications Commission (FCC) imposes on interstate inmate calling.

In several ICS tariff dockets, the Board has approved the following language suggested by OCA: “The billing of taxes on intrastate calls will be in accordance with the same restrictions as are required by Federal Communications Commission rules for interstate calls.” Securus will be required to add this sentence to Section 2.6.2. In addition, the Board will require Securus to remove the term “license” from this section as no longer applicable.

Securus included as part of its comments a discussion of a recent FCC order that required non-Voice over Internet Protocol (non-VoIP) carriers to contribute to the Transmission Relay Service (TRS) Fund. Securus discussed the required contribution and how carriers would recover the required contributions as an example of an additional government assessment that could be passed through to ICS customers.

The Board understands that federal, state, or local governments may mandate other taxes and fees that can be charged to customers making ICS calls. The Board is adopting OCA’s language to ensure there are no markups of those taxes and fees. In this instance, the Board understands the contribution to the TRS Fund only applies to interstate calls and would not apply to the intrastate calls over which the Board has jurisdiction. It is the Board’s understanding that the federal Universal Service Fund charges also are not applied to intrastate inmate calls.

DOCKET NO. TF-2019-0033

PAGE 5

C. Original Sheet 12. Securus will be required to add the Board's telephone numbers and email address to section 2.7(b). The toll-free number is 877-565-4450, the local number is 515-725-7300, and the email address is customer@iub.iowa.gov.

D. Original Sheets 13 and 14. Securus explained that it sells prepaid calling cards to a correctional facility and then the inmate purchases the card from the correctional facility. Original Sheet 13, Section 3.3.2(b), provides that the denominations of the calling cards are determined by the correctional facility and the balance on a prepaid card may not be replenished. This section states that Securus does not engage in direct monetary transactions with inmates.

Original Sheet 14, Section 3.3.2(c), provides that applicable taxes and fees are deducted from the prepaid balance on the card. Section 3.3.2(d) provides that the calling card may be used by the inmate following release from the correctional facility by dialing a special toll-free access number that will connect the call to the Securus network. Section 3.3.2(e) provides that prepaid calling cards are valid for 180 days from the date of first usage and the unused balance is not refundable.

The Board is not clear on how unused balances are treated for prepaid calling cards. Section 3.3.2(d) states that unused balances may be used by the inmate upon release by dialing a special number. Section 3.3.2(e) states that a prepaid calling card expires 180 days after first usage and unused balances are not refunded. These two sections appear to be inconsistent. Section 3.3.2(d) appears to only apply when an inmate is released and usage is within the 180-day period before the prepaid calling card expires.

DOCKET NO. TF-2019-0033

PAGE 6

Whether this is the correct interpretation, if the 180-day limit applies to a prepaid calling card, even when the inmate has been released, the Board does not consider that to be a reasonable provision. As the Board understands the information provided by Securus at the technical conference, the prepaid calling cards are sold to the correctional facility and therefore it should not matter to Securus whether the prepaid calling cards expire. The Board considers it important that any unused balances on calling cards be refunded to the inmate. If Securus considers the expiration of the calling card necessary, Securus should provide justification for the need for the calling cards to expire. In addition, if Securus determines refunds are allowed, Securus will be required to include how refunds may be obtained and language that states when the process for requesting a refund is provided to the inmate.

E. Original Sheet No. 15. OCA objected to the provision in section 3.3.3(b)(ii) that an inmate is required to request an unused balance in a debit account. OCA asked what happens if the inmate does not request the balance. Securus explained that part of the release process is for any unused balance in a prepaid debit account to be given to the inmate by the commissary or correctional facility. Based upon this understanding, the Board does not object to the provision.

F. Original Sheet No. 17. Section 3.3.4(c) provides that a customer may request a refund of an unused AdvanceConnect Account balance by either submitting a written request to Securus or by contacting Securus using the toll-free telephone number provided. The section also states that any unused balance where a refund has not been requested expires within 180 days following the last call made on the account.

DOCKET NO. TF-2019-0033

PAGE 7

Securus explained at the technical conference that after 90 days of non-use, the AdvanceConnect Account is suspended; after 180 days of no activity, the account expires. Securus also explained that Securus honors requests for refunds after the expiration of the account or will reinstate the account. According to Securus, the funds remain available to the inmate or customer even after expiration.

If the Board has understood Securus' practice correctly, Securus should include a statement in section 3.3.4(c) that a customer may request a refund at any time, even after the account has expired. In addition, Securus shall include an explicit statement stating the process for how an inmate or customer is notified of the requirement to affirmatively request a refund.

G. Original Page 18. Section 3.3.5 provides that a customer without an AdvanceConnect Account, or an insufficient balance in an AdvanceConnect Account, may pay for a single call with a credit or debit card. The section states that the customer may also decline the call or set up and fund an AdvanceConnect Account. The single call is charged based upon prepaid call rates plus the automated payment fee of \$3.00.

At the technical conference, PPI raised an issue about the script used by Securus personnel when addressing a situation where the customer does not have an AdvanceConnect Account or has insufficient funds to connect the call. During the discussion, Securus agreed to provide PPI with the call script for this situation. If PPI has an issue with the call script, PPI will need to file a pleading with the Board describing the issue.

DOCKET NO. TF-2019-0033

PAGE 8

H. Original Page 19, Section 4.2.1, states that the charge for each additional minute of usage is the additional billing rate for the “rate period in which each additional minute of the call begins.” Section 4.2.2 states that when calls “cross rate period boundaries (e.g., from the day rate period to the evening rate period), each portion of the call is rated according to the rates applicable during that time period.”

Securus stated at the technical conference that it is negotiating with the correctional facilities where it provides service for a flat rate fee not to exceed \$0.25 per minute. According to Securus, once new rates are negotiated with each correctional facility, Securus will revise the rates in its tariff. The Board discusses the rates in the current tariff in Section I of this order below. Based upon the Board’s decision regarding Securus’ current rates, Securus will be directed to revise sections 4.2.1 and 4.2.2 to remove references to different rates for different usage and calls that “cross rate boundaries.”

I. Original Sheets 20 and 21. The rates set in sections 4.4.1 and 4.4.2 are not just and reasonable. The FCC has set interstate rates at \$0.25 per minute for collect calls and \$0.21 per minute for prepaid calls. The Board expects Securus to revise the intrastate rates it charges for all calls at the Audubon County Jail and the Bremer County Sheriff’s Department to be consistent with the per-minute rates established by the FCC. Securus will be given until December 31, 2020, to file the revised rates.

J. Original Pages 23, 24, 25, and 26. The rates in the current tariff for inmate calling service at the Clarke County Sheriff’s Department, Crawford County Jail,

DOCKET NO. TF-2019-0033

PAGE 9

Mahaska County Jail, and the Pocahontas County Jail are not just and reasonable. The rates for per-minute ICS at those correctional facilities are not consistent with the inmate calling rates approved by the FCC for interstate calls. Securus will be required to revise the rates for intrastate calls in the revised tariff to be consistent with rates approved by the FCC for interstate service. Securus will be given until December 31, 2020, to negotiate rates consistent with the FCC rates.

K. Original Sheet No. 29. The rates in the revised tariff for ICS at the Webster County Sheriff's Office are not just and reasonable. Securus will be required to file rates for service at this correctional facility consistent with the per-minute rates approved by the FCC for interstate service. Securus will be given until December 31, 2020, to negotiate rates consistent with FCC rates.

L. At each correctional facility where Securus provides ICS, fees for automated payment, live agent, and paper bill are set at the same rates set by the FCC. The FCC allows for transaction charges without markup for making deposits into a prepaid account to be passed through to the customer or inmate. The Board is requiring the following language be included in ICS tariffs to ensure this requirement is being followed: "Third-party transaction fees, including credit card processing fees, shall be passed through to customers with no markup. The Company receives no payment from a third-party vendor's transaction fees."

### **REQUEST FOR CONFIDENTIAL TREATMENT**

On August 20, 2019, the Board issued an order initiating inquiry in Docket No. NOI-2019-0001 to evaluate the regulatory framework that applies to alternative operator

DOCKET NO. TF-2019-0033

PAGE 10

services (AOS) companies in Iowa. On September 19, 2019, Securus filed an application for confidential treatment for the information regarding certain responses in that docket.

In its request in Docket No. NOI-2019-0001, Securus states the response includes trade secret information pursuant to Iowa Code §§ 550.2(4) and 22.7(3). Further, Securus asserts the information should be held confidential under Iowa Code § 22.7(6) as the information was requested by the Board in the August 20, 2019 order and “its protection facilitates private parties’ willingness to participate and provide such information.” The information Securus requests to be treated as confidential answers the Board’s question: “What criteria or considerations should the Board use to determine whether rates charged by an AOS company are just and reasonable? This includes the basic rates and any ancillary rates.”

On December 17, 2019, Securus filed a reply to PPI and OCA’s objections and withdrew the confidential treatment request for “the first three paragraphs of its Question 2 response, which appear on page 10 and the first two lines of page 11 of the Response.” Securus stated that it “agrees that these three paragraphs contain a general discussion of industry rate-setting, as opposed to internal methodology and factors for calculating specific rates.” However, Securus continued its request for confidential treatment for “the remainder of its Question 2 response, which begins on page 11, line 3 and continues until the bottom of page 12 of the Response” that discusses Securus’ rate methodology.

DOCKET NO. TF-2019-0033

PAGE 11

On June 24, 2019, Securus filed responses to Board questions in an order issued May 24, 2019, in Docket No. TF-2019-0033, and an application for confidential treatment of certain information filed in response to Question No. 4 in the order. The question, for which confidential treatment was requested, asks for information about how Securus determines rates. On January 22, 2020, Securus filed additional information and a request for instructions on how the Board would like Securus to update information previously filed in response to the Board's orders and rules.

On March 18, 2020, the Board issued an order that required the filing of a revised tariff and addressed the request for confidential treatment. In the order, the Board found "that the information should be granted confidential treatment pursuant to Iowa Code § 22.7(6) as a report to a governmental agency, which, if released, would give advantage to competitors and serve no public purpose." However, the Board also stated, "Securus will be filing a revised proposed tariff with revised rates and the Board may determine that release of information about how the rates approved by the Board are calculated may serve a public purpose." The Board instructed Securus to file with the revised proposed tariff its support for confidential treatment, if confidential treatment was still being sought.

On July 16, 2020, Securus filed the required revised tariff and comments, stating the Board "was correct to grant confidential treatment" and again provided detailed information as to why the information regarding Securus' ratemaking and bidding methodology should remain confidential.

DOCKET NO. TF-2019-0033

PAGE 12

The Board has reviewed the information provided by Securus and the request for confidential treatment. Based upon its review, the Board finds that the information provided by Securus, for which confidential treatment is requested, in Docket Nos. NOI-2019-0001 and TF-2019-0033 is information that should be held confidential pursuant to Iowa Code § 22.7(6). The information is a report to a governmental agency which, if released, would provide an advantage to competitors of Securus for ICS. The Board also finds that release of Securus' method of determining rates would serve no public purpose. The public purpose is served by Securus filing the rates it charges for ICS at the correctional facilities where it provides that service. The Board need not address whether the information could also be held confidential as trade secrets because the Board is granting confidential treatment pursuant to Iowa Code § 22.7(6).

At the September 3, 2020 technical conference, Securus stated that it will be renegotiating the rates for ICS and all of its rates will be no greater than \$0.25 per minute. The Board addressed the revised tariff and the information provided at the technical conference above.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. Securus Technologies, LLC, shall file within 30 days of the date of this order revisions to the July 16, 2020 revised tariff that are consistent with this order. The following revisions shall be made to the revised tariff:
  - a. Replace the term "confinement" with the term "correctional" throughout the tariff.

DOCKET NO. TF-2019-0033

PAGE 13

- b. In section 2.6.1(c) delete the term “toll service” and revise the reference to sales and excise taxes where necessary to be consistent with current service.
  - c. In section 2.6.2 include the following sentence: “The billing of taxes and fees for intrastate calls will be in accordance with the same restrictions as are required by Federal Communications Commission rules for interstate calls.” Also remove the term “license.”
  - d. Add to section 2.7(b) the Utilities Board telephone numbers and email address: 515-725-7300, 877-565-4450, customer@iub.iowa.gov.
  - e. In section 3.3.2(e), remove the sentence “Unused Prepaid Balances are not refundable” or explain why prepaid calling cards have an expiration date and unused balances should not be refunded. In addition, if it is determined refunds are applicable to prepaid cards, include an explicit statement indicating the process for how an inmate or account holder is notified of the requirement to affirmatively request a refund.
  - f. In section 3.3.4(c), include a sentence that states that unused balances are available for refund or use after the account has expired. In addition, include an explicit statement indicating the process for how an inmate or account holder is notified of the requirement to affirmatively request a refund.
  - g. Add the following language to the tariff: “Third-party transaction fees, including credit card processing fees, shall be passed through to customers with no markup. The Company receives no payment from a third-party vendor’s transaction fees.”
2. The rates proposed by Securus Technologies, LLC, in the revised tariff for Audubon County Jail, Bremer County Sheriff’s Department, Clarke County Sheriff’s Department, Crawford County Jail, Mahaska County Jail, Pocahontas County Jail, and Webster County Sheriff’s Office, are not just and reasonable, and are rejected.
3. Securus Technologies, LLC, shall file, on or before December 31, 2020, rates for inmate calling service at the correctional facilities listed in Ordering Clause 2 that are consistent with the rates set by the Federal Communications Commission for interstate inmate calling service.
4. Responses to the revisions required in Ordering Clause 1 shall be filed within 15 days of the date those revisions are filed.

DOCKET NO. TF-2019-0033

PAGE 14

5. The requests for confidential treatment regarding methodology for ratemaking and bidding filed by Securus Technologies, LLC, in Docket Nos. NOI-2019-0001 and TF-2019-0033, on June 24, 2019; September 19, 2019; December 17, 2019; and July 16, 2020, are granted.

6. The information granted confidentiality in Ordering Clause 6 shall be held confidential by the Board subject to the provisions of 199 Iowa Administrative Code 1.9(8)(b)(3).

**UTILITIES BOARD**

**Geri Huser** Date: 2020.11.13  
14:38:18 -06'00'

---

ATTEST:

**Anna Hyatt** Date: 2020.11.13  
14:44:33 -06'00'

---

Richard W. Lozier, Date: 2020.11.13  
Jr. 14:19:57 -06'00'

---

Dated at Des Moines, Iowa, this 13th day of November, 2020.