

STATE OF IOWA
DEPARTMENT OF COMMERCE
IOWA UTILITIES BOARD

IN RE:

SECURUS TECHNOLOGIES, LLC

DOCKET NO. TF-2019-0033

**COMMENTS REGARDING REVISED
TARIFF**

Securus Technologies, LLC (“Securus”) respectfully submits these Comments in response to the Iowa Utilities Board’s (the “Board”) Order Requiring Filing of Revisions to Revised Tariff and Granting Confidential Treatment (the “Order”) of November 13, 2020, and in support of its revised tariff filing on January 29, 2021 (the “Second Revised Tariff”).

BACKGROUND

On January 2, 2019, the Board ordered all companies in Iowa providing incarcerated calling services (“ICS”) to file tariffs with the Board for review to “ensure compliance with applicable statutes and rules while allowing the Board to consider whether rates are reasonable.”¹

On April 1, 2019, Securus filed its tariff (the “Original Tariff”) for Board review. On April 17, 2019, the Iowa Office of Consumer Advocate (“OCA”) filed Conditional Objections to the Original Tariff, and on May 1, 2019, the Board issued an Order Docketing Tariffs for Further Review, Canceling Certain Registration and Tariffs, and Granting Intervention.

On May 24, 2019, the Board issued an Order Granting Petitions to Intervene and Requiring Additional Information (“Request for Additional Information”). In response, on June 24, 2019, Securus filed its Response to Request for Additional Information, and submitted

¹ Docket No. RMU-2017-0004, *Rule Making Regarding Inmate Calling Rate Caps*, Order Terminating Rule Making (Jan. 2, 2019).

an Application for Confidential Treatment and Affidavit in Support of Application regarding certain confidential information contained in Securus' filing.

On March 18, 2020, the Board issued an Order Requiring Filing of Revised Tariff and Addressing Request for Confidential Treatment ("March Order"), which rejected Securus' Original Tariff and directed Securus to file a revised tariff in response to specific items set forth in the March Order's Ordering Clauses. On July 16, 2020, Securus filed a revised tariff (the "First Revised Tariff) along with Comments Regarding Revised Tariff.

On August 6, 2020, the Board issued an Order Scheduling Technical Conference to review the First Revised Tariff. On September 3, 2020, the technical conference was held as scheduled. Based on the information provided at the technical conference, on November 13, 2020, the Board issued the Order, directing Securus to file a revised tariff in response to specific items set forth in the Ordering Clauses.

Securus provides the following responsive comments.

RESPONSES TO ORDERING CLAUSES

A. Ordering Clause 1.a.

Replace the term "confinement" with the term "correctional" throughout the tariff.

Securus made these changes. In addition, Securus is also updating other terminology in its tariff, such as replacing "Inmate" with "Incarcerated Person", and updating the branding of its "Inmate Debit" product to "Securus Debit".

B. Ordering Clause 1.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.

Section 2.6.1(c) on Original Sheet No. 12 addresses the content of Securus' bills to Consumers. Securus revised Section 2.6.1(c) to be consistent with current service, but does

retain reference to “toll service”. As reflected in our standard bill format, Securus’ billing system reports to the consumer a description of the call type (including local, IntraLATA, InterLATA, intrastate, or interstate) even if the call is rated at a uniform per-minute rate. The bill will also include ancillary service charges, and governmental taxes and fees. As it accurately describes the content of Securus’ bill format and the disclosure of the types of toll services is provided for clarity to the consumer, Securus requests the Board reconsider the need to strike the term “toll service”, which is accurately used and currently retained. Securus also added a list of the call types and abbreviations used in its consumer bills.

C. Ordering Clause 1.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 the Federal Communications Commission rules for interstate calls.” Also remove the term “license.”

Section 2.6.2 on Original Sheet No. 13 addresses taxes and fees. Securus revised Section 2.6.2 to include a statement regarding complying with the Federal Communications Commission’s (“FCC”) ICS rules with regard to billing for taxes and fees, but requests approval of alternative specific language intended to tie together all provisions regarding governmental taxes and fees into a single provision using language based on the FCC’s rules. In connection with this:

- (i) Securus added the defined term “Authorized Fee” consistent with the FCC’s definition in 47 CFR § 64.6000(b) but (a) without reference to interstate or international calls, (b) referring to the “party paying for the ICS call” rather than the FCC’s defined term for “Consumer”, and (c) specific to Securus (rather than the generic “Provider”).

- (ii) Securus added the defined term “Mandatory Tax or Mandatory Fee” consistent with the FCC’s definition in 47 CFR § 64.6000(n) but (a) without reference to interstate or international calls, (b) referring to the “party paying for the ICS call” rather than the FCC’s defined term for “Consumer”, and (c) specific to Securus (rather than the generic “Provider”).
- (iii) Securus removed the governmental tax and fee provisions from Section 3.3.2(c) (applicable to Prepaid Calling Cards), Section 3.3.3(e) (applicable to Debit Accounts), and Section 3.3.4(b) (applicable to AdvanceConnect Accounts), and adding a single statement in Section 2.6.2 regarding applicable Mandatory Taxes or Fees or Authorized Fees being in addition to the tariffed rates and charges.
- (iv) Securus listed each applicable Mandatory Tax or Fee and Authorized Fee charged and collected on intrastate calls in Iowa by type. As noted during the technical conference, Securus was considering how to recover the extension of the FCC’s Telecommunications Relay Service Fund (“TRS Fund”) contribution base to intrastate calls as of July 1, 2020.² Securus will be assessing a charge characterized as a Federal Cost Recovery Charge as an Authorized Fee pursuant to the FCC’s ICS rules. Securus will pass on to the party paying for an ICS call the TRS Fund contribution factor required by the FCC on intrastate calls, without any markup.
- (v) Securus removed the term “license”.

² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123 (“TRS Proceeding”), Report and Order, FCC 19-118 (released November 25, 2019) (initial extension); and TRS Proceeding, Notice of Proposed Rulemaking, FCC 20-161 (released November 20, 2020) (further extension).

D. Ordering Clause 1.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.

Section 2.7 on Original Sheet No. 13 addresses inquiries and resolution of complaint procedures. Securus made this change.

E. Ordering Clause 1.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 calling 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.

Section 3.3.2(e) on Original Sheet No. 15 addresses the expiration of Prepaid Calling Cards and refunds. Securus reiterates its discussion from the technical conference of its refund policy with regard to Prepaid Calling cards:

Securus is not a party to the direct sale of the Prepaid Calling Card to any incarcerated person, Securus never receives payment from an incarcerated person for the card, and Securus does not have data on which individual owns a particular card. A Prepaid Calling Card is a tangible product, which Securus sells to a correctional facility in bulk (at a discounted price) for resale (at face value) by the facility to incarcerated persons through the facility’s commissary. At the time Securus sells a card to the correctional facility, the individual who ultimately purchases that card may not yet be at the facility. At no time does Securus have information about the individual holder of a Prepaid Calling Card, and Securus is not involved in how an individual correctional facility handles the distribution and any tracking of these cards. Securus has no way to verify whether a person claiming a refund for a Prepaid Calling Card is the actual purchaser of the card. As noted, Securus sells the cards to the correctional facility at a

discounted price, and does not receive the full face value of the Prepaid Calling Card, and Securus should not be required to make a refund of value it never received.

Like similar prepaid calling cards made available to consumers by other carriers outside of ICS, Securus' Prepaid Calling Cards expire 180 days after their first use. An expiration date is necessary because of the administrative burdens of keeping an unlimited number of accounts open for an unlimited amount of time.

It is important to note the context in which Prepaid Calling Cards are used, the alternatives available to incarcerated persons other than Prepaid Calling Cards, and the ability of purchasers to obtain full value from the cards even after discharge from a correctional facility. They are typically sold in small denominations (e.g., \$5, \$10, or \$15) and made available at smaller facilities that do not have long-term resident or debit account arrangements.³ There is no obligation for an individual to purchase a Prepaid Calling Card; they are one of a number of prepayment options available (including AdvanceConnect Accounts or AdvanceConnect Single Call), as well as collect calling. Securus' Prepaid Calling Cards may also be used after an individual is released from a correctional facility as described in Section 3.3.2(d).

In summary, Securus needs to be able to expire unused Prepaid Calling Cards for administrative efficiency and to avoid the cost of tracking dormant cards. Further, Securus should not be required to provide refunds of amounts it did not receive to parties with whom it did not engage in a transaction. In addition, Securus has no information about the holders of Prepaid Calling Cards and has no way of verifying whether a person claiming a refund is in any way connected with the purchase of the card.

³ Note that Bremer County Sheriff's Department has debit accounts, and also provides Prepaid Calling Cards.

F. Ordering Clause 1.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.

Section 3.3.4(c) on Original Sheet No. 18 addresses the expiration of prepaid AdvanceConnect Accounts established by family and friends of incarcerated persons, and applicable refunds. At the technical conference, Securus described its refund practices for AdvanceConnect Accounts as allowing an account holder to request a refund or reactivation of an expired account at any time. As described in its Motion for Additional Time to File Revisions to Tariff of December 11, 2020, Securus subsequently conducted a review of its refund policies applicable to all of its product offerings on a corporate level. As a result of that review, Securus revised its AdvanceConnect Account refund policy to allow a generous time frame for seeking a refund, but also including a cut-off at almost a year after the last use of the account.

As of March 1, 2021, Securus will suspend an AdvanceConnect Account 90 days after the last call made (and the account holder may reactivate the account by calling Securus' customer service department), and will close the account following 180 days after the last call made. However, an account holder will then have an additional 180 days during which they may request a refund of the account balance (i.e., up to 360 days following the last call made). This refund policy is set forth in the terms and conditions a consumer must approve in order to set up an account, and they are set forth on Securus' website for consumers at www.securustech.net.

Securus updated Section 3.3.4(c) to reflect this revised refund policy.

G. Ordering Clause 1.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.”

Securus added a new Section 4.3.1 on Original Sheet No. 21 addressing the impact of the FCC’s effective assertion of jurisdiction over all ancillary service charges. In its recent 2020 Order,⁴ the FCC determined that ancillary service charges are jurisdictionally mixed,⁵ and subject to the FCC’s jurisdiction and rules unless an ICS provider can definitively establish the jurisdiction of a call as intrastate based on the physical locations of the endpoints of the call as being within the same state.⁶ As a result, Securus is clarifying that all ancillary service charges are subject to the FCC’s jurisdiction and rules regarding ICS, and Securus’ practices in connection with charging ancillary service charges in connection with ICS complies with FCC Rule 47 CFR § 64.6020. Securus is leaving the current list of intrastate ancillary service charges (which already conform to the FCC’s ICS rules) unchanged in the tariff, to be applied if intrastate calls are segregated from interstate ICS calls based on the physical location of the endpoints of the calls.

Securus is adding the required language to the end of new Section 4.3.1.

H. Ordering Clause 3.

Securus Technologies, LLC, shall file ... rates for inmate calling services at the correctional facilities listed in Ordering Clause 2 [i.e., Audubon County Jail, Bremer County Sheriff’s Department, Clarke County Sheriff’s Department, Crawford County Jail, Mahaska County Jail, Pocahontas County Jail, and Webster

⁴ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order on Remand and Fourth Further Notice of Proposed Rulemaking, FCC 20-111, 35 FCC Rcd 8495 (released Aug. 7, 2020; effective Nov. 23, 2020) (“2020 Order”).

⁵ *See, Id.*, at ¶ 34 (single-call service associated with a specific call can be jurisdictionally determined based on the classification of the underlying call), ¶ 36 (automated payment fees are jurisdictionally mixed), ¶ 40 (third-party financial transaction fees are jurisdictionally mixed), ¶ 43 (live agent fees are jurisdictionally mixed), and ¶ 46 (paper bill fees are jurisdictionally mixed unless the ICS provider can confirm there are no interstate or international calls reflected on the paper bill).

⁶ *Id.*, at ¶ 53.

County Sheriff's Office] that are consistent with the rates set by the Federal Communication Commission for interstate inmate calling service.

As stated at the technical conference, Securus is filing revised rates for the required correctional facilities consisting of uniform, per-minute rates that do not exceed \$0.25 per minute. To the extent any prepaid calling rate (applicable to Debit Accounts or AdvanceConnect Accounts) exceeds the FCC's interstate ICS rate cap of \$0.21 per minute, Securus requests the Board grant a waiver of its requirement for compliance with the FCC ICS rate caps. In other ICS dockets, the Board has used the FCC's rate caps as a guide and allowed similar rates to be within a range of reasonableness up to \$0.25 per minute, and Securus requests similar consideration be given to the rates at these facilities.⁷

Please note that Pocahontas County Jail ceased being a facility customer of Securus as of December 1, 2020, and Securus removed that correctional facility from the tariff.

Respectfully submitted this 29th day of January, 2021.

By: /s/ Bret A. Dublinske

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⁷ See, e.g., Docket No. TF-2019-0039, *In re: Global Tel*Link Corporation*, Order Requiring Filing of Tariff Revisions and Annual Registration (Aug. 20, 2020), at 10; Docket No. TF-2019-0026, *In re: Reliance Telephone of Grand Forks, Inc.* (Aug. 10, 2020), at 6.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of January, 2020, she electronically filed the foregoing document with the Iowa Utilities Board using the EFT system, which will send electronic notification of such filing to the appropriate persons.

/s/ Olivia Lucas