

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: SECURUS TECHNOLOGIES, LLC	DOCKET NO. TF-2019-0033
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**ORDER APPROVING TARIFF AND REQUIRING REVISED TARIFF SHEETS
AND EXPLANATIONS**

PROCEDURAL HISTORY

On January 2, 2019, the Utilities Board (Board) issued an order terminating the rule making in Docket No. RMU-2017-0004, which required all alternative operator services (AOS) providers to file current tariffs with the Board. On March 14, 2019, the Board issued an order requiring all AOS companies to file a complete tariff for Board approval and to file additional information.

On April 1, 2019, Securus Technologies, LLC (Securus), filed a proposed tariff to comply with the Board orders issued in Docket No. RMU-2017-0004. Securus' tariff was filed in Docket No. TF-2019-0033. The Board subsequently issued an order docketing and suspending the proposed tariff and on March 18, 2020, issued an order requiring revisions to the proposed tariff. On July 16, 2020, Securus filed a revised tariff in response to the March 18, 2020 Board order.

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Global Tel*Link Corporation; and Prison Policy Initiative (PPI) are parties to this docket.

On November 13, 2020, the Board issued an order requiring revisions to the

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revised tariff. On January 29, 2021, Securus filed a revised tariff in compliance with the November 13, 2020 Board order. On February 8, 2021, PPI filed comments in response to Securus' January 29, 2021 revised tariff. On February 16, 2021, OCA filed comments in response to Securus' January 29, 2021 revised tariff.

DISCUSSION

The Board has reviewed the revised tariff filed by Securus on January 29, 2021, and finds that Securus' proposed tariff, as revised, is in substantial compliance with Board requirements. The tariff implements rates for calls that range between \$0.15 and \$0.25 per minute, which is consistent with rates for interstate inmate calling set by the Federal Communications Commission. The rates will become effective once the revised tariff is approved by the Board. The Board considers it important that these rates be implemented as soon as possible and is approving the revised tariff on that basis.

A. PPI Comments

In its comments, PPI asserts two issues remain. PPI states that "the proposed treatment of unused prepaid funds raises serious questions about Securus's earning of unreasonable profits" and "recently produced evidence indicates that Securus's single call product may steer consumers into paying more for calls than necessary."

a. Unclaimed Property Argument

PPI asserts that Securus should be made to remit unused balances on calling cards to the Iowa unclaimed property program. PPI provides four arguments as to why Securus should be made to give unused balances to the unclaimed property program.

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PPI asserts that Securus' argument that it does not receive money from an incarcerated person is "merely a distraction" because Securus receives payment for the card from the correctional facility. PPI claims that due to Securus receiving payment from the correctional facility, the "unspent cash is susceptible to administration under the unclaimed property program regardless of whether there is a direct exchange between Securus and the card holder."

PPI also asserts that Securus' argument that Securus sells the calling cards to correctional facilities at a discount price is immaterial because it is common for items sold at a discount to be included in Iowa's unclaimed property program, and that Securus should take that into account when pricing the cards.

Next, PPI asserts that the fact Securus does not have cardholder personal information is "unavailing" because the Iowa unclaimed property program does not require personal information when the value is under \$50.

PPI asserts Securus' final argument that it is administratively burdensome to not close the account is irrelevant because Securus can turn over the funds to the treasurer's office at the time of closing the account.

b. AdvanceConnect Accounts

PPI asserts that PPI and OCA have repeatedly raised concerns regarding prepaid accounts. In this case, PPI states that instead of Securus adding a statement that provides for a customer to be able to request a refund at any time, Securus should revise the tariff to allow refunds to be requested within a year. PPI asserts that Securus has not provided any justification that the refund provision is just and reasonable. PPI argues that because Securus can track calls and close dormant accounts, Securus can

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refund the money and, if Securus does not opt to refund unused funds, Securus can remit the unused funds to the unclaimed property program. PPI argues that consumers provide money to Securus to provide a service and when that service is not provided and a refund is not provided based on “an arbitrary cut-off date is a per se ‘unreasonable profit’ prohibited by Iowa Code § 476.8(2).”

c. AdvanceConnect Single Call

Securus offers a single-call option for consumers who do not have an account or have an insufficient amount of money in their account. PPI reiterates concern that the single-call option “potentially steers end-users to incur automated payment fees on a per-call basis” that is more expensive if multiple calls are made.

PPI first asserts that there is ambiguity because the same message is played whether there is no account or there are insufficient funds in an account. PPI asserts that Securus should alter the call prompts so different information is provided, based on whether an account has been set up.

PPI’s second assertion is that the AdvanceConnect account’s menu options “create unnecessary burdens to establishing an AdvanceConnect account” and “nudges consumers into making economically inefficient choices.” PPI asserts that Securus should allow for automatically connecting to set up an account instead of the consumer writing down a number and then calling Securus. PPI also argues that by the script mentioning the single-call option first, “the call flow runs the risk of either confusing call recipients or steering them toward choosing the single call product without fully understanding the impact of that choice.” PPI states that if the call prompts provide more information, the consumers can make better informed decisions.

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PPI's third assertion is that during the initial call, the consumer may be preoccupied or distracted and not listening while the pre-call introduction is playing. PPI suggests Securus play a post-call recording or send a post-call text message to help alleviate confusion.

B. OCA Comments

In its comments, OCA states it has no objection to the January 29, 2021 tariff, but provides six sections within the tariff that OCA believes may require ongoing attention.

a. Collect Calls

OCA asserts that by adding language, and retaining the term "toll service" to section 2.6.1, the terms "are unnecessary and confusing." OCA states the tariff and billing system should follow current practices within inmate calling service. Additionally, OCA requests further clarification on when Securus would bill customers who receive a collect call, as the normal practice for collect calls is to be paid at the time of the call.

b. Taxes and Fees

OCA states that Securus should define the term "Federal Cost Recovery Charge" within section 2.6.2. OCA also states that it would be helpful if inmate calling service providers were required to provide additional information within the respective dockets, such as how much in taxes and fees are allocated to federal, state, and local governments, and explain how the taxes and fees are computed or assessed.

c. Prepaid Calling Cards

Section 3.3.2 discusses Securus' prepaid calling cards, which currently are nonrefundable. OCA states that Securus' reasoning for not allowing refunds, and retaining expiration dates, are meritless. Specifically, OCA states:

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In its dealings with the correctional facility, Securus should require the correctional facility to make adequate provision for refund of unused funds, thus securing for the inmates the refunds they deserve while relieving Securus of the obligation to keep track of the cards once they leave Securus' hands and the obligation to finance the refunds with value Securus does not but the correctional facility does receive.

Further, OCA asserts that whoever sells the card to an inmate should be able to offer the inmate a refund and although a card can be used after an inmate's release, it is unclear as to the value of the prepaid calling card after release.

OCA states that it has no objection to a small amount being nonrefundable, but the combined amount should be remitted to the state. OCA also states that it does not object to expiration dates as long as the remaining amount is refunded at expiration or notification was provided explaining a refund needs to be requested.

d. Debit Accounts

OCA states that section 3.3.3(b)(ii), debit accounts funded by inmates at a facility's commissary, and section 3.3.3(c)(ii), debit accounts funded by inmates or family and friends via Securus, provide that unused debit account balances will be refunded "in accordance with the Correctional Facility's policies and procedures." OCA requests that Securus explain why the language regarding the correctional facility's policies and procedures was added and further detail the specific policies and procedures.

e. AdvanceConnect Accounts

OCA states that Securus in section 3.3.4, which addresses AdvanceConnect accounts, was required by previous Board order to include a statement providing that a refund may be requested at any time and to explicitly state how an account owner is

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notified of the need to affirmatively request a refund. OCA stated that Securus did not provide either of the statements. Securus did provide that after 90 days of nonuse, an account will be suspended and after 180 days of nonuse, an account will be closed; however, the account holder must request a refund prior to 360 days of nonuse. Securus also added a provision that the refund policy can be found on its website. OCA requests that these two provisions be changed within Securus' tariff.

f. AdvanceConnect Single Calls

OCA initially states that it is appreciative of how Securus has changed the rate structure for single calls, which reduced a 15-minute call total to \$6.75 instead of amounts as high as \$14.99. However, OCA joins PPI's concerns regarding the use of single-call options as opposed to other types of accounts that would essentially spread an ancillary fee over multiple phone calls. In addition to PPI's recommendations, OCA suggests Securus open an account and use that account to place the call instead of using the single-call option. OCA also suggests that Securus could lower the ancillary fee for single calls.

C. Board Discussion

The Board will not require Securus to negotiate additional refund policies with the correctional facilities where it provides inmate calling service at this time. Iowa Code § 556.4 establishes the requirements for utility retained deposits and refunds. Those funds are presumed to be abandoned if unclaimed for more than one year. Thus, the Board will require Securus to explain whether it remits the unused balance of its inmate calling accounts, and calling cards, pursuant to Iowa Code § 556.4 and, if not, what

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authority supports its practice not to remit the funds. After Securus files its explanation, the Board will determine what action to take.

The Board will not require Securus to revise sections 2.6.1, which governs collect calls, and 2.6.2, which discusses Securus' policy regarding taxes and fees. Tariffs are approved subject to complaint and investigation, and the Board will continue to monitor service provided under the tariff and to address any complaints filed regarding the tariff, including the issues raised by OCA and PPI.

In subsection 2.7(b), Securus provided the Board's email address as customer@iub.gov. Securus will be required to update the Board's email address to customer@iub.iowa.gov.

In regard to subsection 3.3.2(e), Securus will be required to provide an explanation as to when and how an inmate is notified that the prepaid calling card is only valid for 180 days and is not refundable. Throughout the refund portions of the tariff, Securus will be required to include explicit statements about when inmates and account holders are notified of the different refund policies.

Finally, the Board will not require Securus to revise its script for responding to calls to include information on how to pay for a one-time call, Advance Connect Single-Call. The script runs through the various options and if there is no account or no account with sufficient funds, that information is provided and the called party is offered the option of making a one-time call with a credit or debit card. This script, although cumbersome, appears to be reasonable. The Board questions why the statement that a "one-time transaction fee of [Y]" does not include the \$3.00 automated payment fee in the tariff. This statement appears to indicate that some other fee may be charged. The

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Board understands the payment of the \$3.00 automated payment fee to be the only other charge, except for the per-minute rate. While an explanation regarding the single-call ancillary fees will be required, the Board will not adopt OCA's suggestion that the ancillary fees for single calls be reduced at this time.

Based on substantial compliance with Board requirements for providing inmate calling service, the Board will approve Securus' proposed tariff, as revised. Securus will be required to file revised tariff sheets consistent with this order as a new tariff filing and answer questions posed by this order.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The proposed tariff filed by Securus Technologies, LLC, on January 29, 2021, and identified as Docket No. TF-2019-0033, is approved, subject to complaint and investigation, and will become effective as of the date of this order.
2. Within 30 days from the date of this order, Securus Technologies, LLC, shall file revised tariff sheets as a new tariff filing consistent with this order. The following revisions shall be made:
 - a. Correct the Utilities Board email address to customer@iub.iowa.gov on Original Sheet No. 13.
 - b. Update all refund policies to include explicit statements about when an inmate or account holder is notified of the specific policy.
3. Within 30 days of the date of this order, Securus Technologies, LLC, shall file an explanation addressing whether it remits unused funds in inmate calling accounts

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to the State Treasurer of Iowa pursuant to Iowa Code § 556.4 and provide clarification regarding the automated payment fee for one-time calls.

UTILITIES BOARD

Geri Huser Date: 2021.03.02
13:48:13 -06'00'

Richard Lozier Date: 2021.03.02
15:41:18 -06'00'

ATTEST:

Anna Hyatt Date: 2021.03.02
15:49:51 -06'00'

Joshua J Byrnes Date: 2021.03.02
13:45:10 -06'00'

Dated at Des Moines, Iowa, this 2nd day of March, 2021.