

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054**

In the Matter of:]	
]	
Petition of Network Communications]	
International Corporation for Forbearance]	WC Docket No. 19-232
Pursuant to 47 U.S.C. § 160(c) from 47 U.S.C.]	
§ 254(d) and 47 C.F.R. § 54.706(a)]	

REPLY COMMENTS

Pursuant to Section 1.55(b)(4) of the rules of the Federal Communications Commission (the “FCC”),¹ and the public notice, dated August 16, 2019,² Network Communications International Corporation (“NCIC”), hereby submits its **REPLY COMMENTS** in the above-referenced proceeding. NCIC filed a Petition for Forbearance (the “Petition”) on August 9, 2019, seeking targeted forbearance from the application of Universal Service Fund (“USF”) contribution requirements set forth in Section 254(d) of the Act and Section 54.706 of the FCC’s rules with respect to the provision of interstate and international inmate calling services.³

All parties submitting comments in this proceeding support NCIC’s request.⁴ Two parties, Securus Technologies and Worth Rises, provided additional comments, to which NCIC responds herein.

¹ 47 C.F.R. §§ 1.55(b)(4) (2019).

² *See Pleading Cycle Established for Comments on Network Communications International Corporation’s Petition for Forbearance from USF Contribution Requirements*, Public Notice, WC Docket No. 19-232, DA 19-781 (rel. Aug. 16, 2019) (the “Notice”).

³ 47 C.F.R. § 64.6000(j) (2019) (“Inmate Calling Service means a service that allows Inmates to make calls to individuals outside the Correctional Facility where the Inmate is being held, regardless of the technology used to deliver the service.”).

⁴ *Comments of Prison Policy Initiative*, WC Dkt. 19-232, filed August 30, 2019 (“the objectives of the USF would be better achieved by *not* charging the end-users of Inmate Calling Services.”); *Comments of*

I. SECURUS COMMENTS

Securus Technologies supports the Petition, subject to “one important condition.”⁵ Specifically, Securus notes that most ICS providers are resellers, and provide their underlying carriers with certificates “attesting that [the ICS provider] contributes to the USF with respect to its end-user telecommunications service revenues, including ICS.”⁶ Securus seeks clarification that it would be able to continue to provide exemption certificates to its carriers, and proposes language to be used in the certificate to reflect that the FCC has granted the Petition.⁷

NCIC supports this clarification, and the use of Securus’ proposed language to be included in the exemption certificates. As Securus notes, some carriers would likely pass on the cost of USF contribution compliance without this additional language,⁸ which would completely undermine the purpose of granted forbearance. The remainder of Securus’ comments support the grant of the Petition.

Human Rights Defense Center, WC Dkt. 19-232, filed September 6, 2019 (“the implementation of the USF contribution requirements has demonstrably injured its intended beneficiaries”); *Comments of Inmate Calling Solutions LLC*, WC Dkt. 19-232, filed September 16, 2019 (“ICSolutions supports the Petition in its entirety.”); *Comments of the Wright Petitioners*, WC Dkt. 19-232, filed September 16, 2019 (arguing that it is “fundamentally unfair” to require ICS customers to contribute to the USF”); *Comments of Securus Technologies, Inc.*, WC Dkt. 19-232, filed September 16, 2019 (“granting forbearance as requested by NCIC, subject to one important condition, will serve the public interest, convenience and necessity.”); *Comments of Pay Tel Communications Inc.*, WC Dkt. 19-232, filed September 16, 2019 (“granting the Petition will actually *better* ensure just, reasonable and non-discriminatory charges; better protect consumers; and better serve the public interest.”); and *Comments of Worth Rises*, WC Dkt. 19-232, September 16, 2019 (“Layering the USF fee onto the cost of calls makes it even harder for incarcerated people and their families to stay connected.”).

⁵ See *Comments of Securus Technologies, Inc.*, pg. 1.

⁶ *Id.*, pg. 2.

⁷ *Id.*, pg. 3.

⁸ *Id.*

II. WORTH RISES COMMENTS

Worth Rises also supports the goal of eliminating the imposition of USF fees on ICS consumers. On the other hand, Worth Rises suggests that the FCC continue to “collect USF fees from correctional telecom providers but prohibit them from passing these fees onto their consumers.”⁹ Should the FCC reject its proposal, Worth Rises still supports the grant of the Petition.

The FCC cannot grant Worth Rises’ proposal in connection with a petition for forbearance filed pursuant to Section 10 of the Communications Act (the “Act”). In particular, the relief requested by Worth Rises would require the modification of other FCC rules which are outside the scope of this proceeding. The FCC has noted that it is under the obligation to grant forbearance when a petitioner has satisfied the Section 10 criteria, and must reject requests by parties that are “beyond the scope” of a forbearance proceeding.¹⁰ Thus, the FCC must limit its review solely to the question whether granting the Petition satisfies Section 10.¹¹

Moreover, Worth Rises’ suggestion that ICS providers continue to contribute USF fees, but be prohibited from collecting those USF fees from ICS consumers, would not be in the public interest. As noted by Securus, if ICS providers are required to contribute USF fees, but not

⁹ See *Comments of Worth Rises*, pg. 1.

¹⁰ See *Petition of NTCA-The Rural Broadband Association and the United States Telecom Association for Forbearance Pursuant to 47 U.S.C. § 160(c) from Application of Contribution Obligations on Broadband Internet Access Transmission Services*, Order, 33 FCC Rcd 5712, 5715, nt. 20 (2018). See also *Telecommunications Carriers Eligible for Universal Service Support (Cricket and NTCH Petitions for Forbearance)*, Order, 26 FCC Rcd. 13723, 13727, nt. 30 (2011).

¹¹ See *Petition of US Telecom for Forbearance Pursuant to 47 U.S.C. §160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next-Generation Networks*, Memorandum Opinion and Order, 31 FCC Rcd. 6157, 6220, nt. 391 (2015) (rejecting requests to expand the scope of the petition for forbearance) (citing *Qwest Omaha Forbearance Order*, 20 FCC Rcd 19415, 19445, nt. 161 (2005) (the Commission is “under no statutory obligation to evaluate [a] Petition other than as pled”).

collect them from ICS consumers, it is likely that some ICS providers will “pass these costs through to their users, either directly or indirectly,” most likely by raising unregulated intrastate ICS rates which comprise 80% of the overall ICS call volume.¹² Moreover, the FCC permits all service providers to pass-through USF charges to end users (without mark-up); prohibiting ICS providers from doing so, would be discriminatory and without any legal basis.¹³

Under such a scenario, and because unregulated intrastate ICS calls comprise at least 80% of all ICS call volume, it is possible that Worth Rises’ proposal could lead to ICS customers paying more per-minute for unregulated intrastate ICS calls than under the current rules. Clearly, by losing the current level of protection against the markup of USF fees, this result would be apposite to the goals of Section 10 and would fail to serve the public interest.

III. CONCLUSION

It is a rare occasion when there is unanimous support by ICS providers *and* public interest organizations with respect to specific reforms to the inmate communications service industry. In the instant case, four of the major ICS providers and four of the main public interest organizations active in WC Docket 12-375 agree that the FCC should no longer require ICS providers to contribute to the Universal Service Fund. By eliminating this obligation, all parties agree that ICS customers will receive immediate relief from paying the USF fee as a passthrough from ICS providers.


¹² See *Securus Comments*, pg. 3.

¹³ See 47 C.F.R. § 54.712(a) (2019).

Therefore, for the foregoing reasons, Network Communications International Corporation respectfully requests that the FCC grant forbearance from USF contribution obligations pursuant to Section 254(d) of the Act and Section 54.706 of its rules for all interstate and international Inmate Calling Service calls provided by Inmate Calling Service Providers pursuant to Section 64.6000(j) of the FCC's rules.

Respectfully submitted,

**NETWORK COMMUNICATIONS
INTERNATIONAL CORPORATION**

By: 

Glenn S. Richards

Lee G. Petro

PILLSBURY WINTHROP SHAW PITTMAN LLP

1200 Seventeenth Street, N.W.

Washington, DC 20036-3006

(202) 663-8000

Its Counsel

October 1, 2019