

Arent Fox

February 9, 2015

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Stephanie A. Joyce

Attorney
202.857.6081 DIRECT
202.857.6395 FAX
joyce.stephanie@arentfox.com

Re: Notice of Permitted *Ex Parte* Meeting, WC Docket No. 12-375

Dear Ms. Dortch:

On February 5, 2015, Securus Technologies, Inc. (“Securus”), represented by Richard Smith, Chief Executive Officer, Dennis Reinhold, Vice President and General Counsel, and the undersigned counsel, met with Pamela Arluk, Lynne Engledow, and David Zesiger, Deputy Chiefs of the Pricing Policy Division of the Wireline Competition Bureau, and Rhonda Lien, an attorney with the Division.

Securus provided large copies of the attached document and discussed it in detail. Securus believes that the goals of all parties will be met with the adoption of the proposed rates and rules set forth in the Industry Proposal filed September 15, 2014.¹ The proposed unified rate cap of \$0.20 per minute for prepaid calls and \$0.24 per minute for collect calls is the appropriate backstop and will ensure that carriers recover their reported Inmate Calling Services (“ICS”) costs. Monetary site commissions that reimburse correctional facilities for the direct costs they incur to make ICS available also would be appropriate, so long as ICS providers can recover those payments via an additive per-minute rate.

Securus noted that the Elasticity Report written by FTI Consulting, Inc., which was filed with Securus’s Comments on January 12, 2015, drew support in the record, while the Pay Tel “jails vs. prisons” rate construct was not supported by any other commenter.

Finally, Securus provided the attached Draft Rules and discussed them with Staff. In addition to

¹ WC Docket No. 12-375, Letter from Global Tel*Link Corporation, Securus, and Telmate, LLC to Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O’Rielly (Sept. 15, 2014) (filed by Cherie R. Kiser, Counsel to Global Tel*Link).

Arent Fox

those Draft Rules, Securus proposes the following new rule:²

Rule 64.6100 Annual Officers' Certification

On February 1, 2016, and every year thereafter, every ICS provider shall file a sworn attestation by its Chief Executive Officer, Chief Financial Officer, and General Counsel that the ICS provider complied fully with all rules in this Subpart throughout the previous calendar year.

As Securus stated in its Reply Comments filed January 27, 2015 (p. 23), no commenter opposed the adoption of this rule.

This disclosure is made in compliance with 47 C.F.R. § 1.1206(a)(1).

Please do not hesitate to contact me with any questions: 202.857.6081.

Sincerely,

s/Stephanie A. Joyce

Counsel to Securus Technologies, Inc.

Attachments

Cc: Pamela Arluk, Deputy Chief, Pricing Policy Division, Wireline Competition Bureau
Lynne Engledow, Deputy Chief, Pricing Policy Division, Wireline Competition Bureau
David Zesiger, Deputy Chief, Pricing Policy Division, Wireline Competition Bureau
Rhonda Lien, Pricing Policy Division, Wireline Competition Bureau
All via electronic mail

² See ICS Proposal at 7 (“[A]ll ICS providers should be required to submit an annual certification by the company Chief Executive Officer, Chief Financial Officer and General Counsel, under penalty of perjury, certifying that the company is in compliance with the FCC ICS rate rules and any admin-support payment rules adopted”).

Interstate Inmate Rates – WC Docket No. 12-375

Inmate Rates – What do the Various Parties Really Want?

Inmates, Friends and Family - Low rates, reasonable fees, simple consistent rate plan, and the ability to communicate more often

Correctional Facilities – Security, safety, recovery of ICS-related costs, 2 year transition plan and best technology

ICS Providers – Recovery of all costs to provide ICS, the ability to continue serving all facilities, the ability to continue providing facilities with safety, security, crime solving tools and new technology

FCC – Low rates, low fees, competitive model, more communication between inmates and their friends and family leading to reduced recidivism, safety, security and simplicity

How Can Everyone's Objectives be Met?

Simplicity – Same rate for every call (interstate and intrastate): \$.20/minute prepaid, \$.24/minute collect, and no per call surcharge. The simplified rate structure will make ICS charges more transparent for inmates and their friends and family, and will discourage gaming.

Recovery of ICS Provider's Costs – The Commission's Mandatory Data Collection indicated that ICS provider's costs range from approximately \$.134 per minute to \$.197.

- The proposed rate caps allow sufficient flexibility to ensure ICS providers are able to serve all correctional facilities, maintain security features, regardless of size or location. FTI Consulting explains why sound ratemaking requires rates to be set **above** average cost.
- The Commission should permit an ICS provider to seek a waiver of the rate cap for a particular correctional facility if the ICS provider can demonstrate that the proposed rate cap does not allow the ICS provider to economically serve the correctional facility.

Administrative Support Payments for Correctional Facilities – NSA member survey data indicates that costs range from \$.004 per minute to \$1.74 per minute.

- Correctional facilities should be reimbursed for the direct costs they incur in connection with ICS. The cost recovery mechanism should be an independent per minute rate component that the Commission derives from the cost figures it receives from correctional authorities.
- Any per minute rate must be additive to the ICS rate cap, because no commissions or admin. support payments were included in ICS provider's costs submitted to the Commission.

Ancillary Fees – Eliminate the majority of ancillary fees. Cap funding fees at \$7.50; Maximum validation fee of 8% per call; maximum \$2.50 administrative fee for third-party money transfer services; retain optional premium payment services so long as there is always a free alternative.

Transition – 24 months or 2 budget cycles



WC Docket No. 12-375, Rates for Interstate Inmate Calling
Draft Rules

Rule 64.6000 Definitions

* * *

(6) Inmate calling services, or ICS, means the offering of local, intrastate, and interstate calling capabilities from an Inmate Telephone;

* * *

[NEW] (11) Site Commission means any form of monetary payment remitted by an ICS provider on a recurring or non-recurring basis (a) to the entity that operates a correctional facility, or (b) to the entity with which a Provider enters into an agreement to provide ICS to a facility, (c) to a governmental agency that oversees a facility, (d) to the State, County, or City where the facility is located, or (e) to an agent of such entities.

Rule 64.6070 Inmate Calling Services Rate Cap [replaces Rule 64.6030]

No Provider may charge a rate for any inmate-initiated call from a correctional facility that exceeds \$0.20 per minute for Debit Calling or \$0.24 for Collect Calling. No per-call fee, per-call charge, or connect fee may be charged, regardless of the amount of the per-minute charge. For correctional facilities to which payments described in Rule 64.6090(a) continue to be paid, this Rate Cap will be effective when those payments cease.

Rule 64.6080 ICS Ancillary Charges

Only the following Ancillary Charges may be charged in connection with ICS:

- (a) Transaction or Deposit Fee. A Provider may charge up to \$7.95 for a transaction by which a consumer uses a credit card (i) to establish or to replenish a Debit account, and no maximum funding amount may be imposed by the Provider when any such fee is charged, or (ii) to pay amounts due in arrears;
- (b) Validation Fee. A Provider may charge, on a per-call basis, a fee to recover the cost of call validation that is up to 8% of the total amount charged for the call;
- (c) Money Transfer Fee. A Provider may charge up to \$2.50 to administer payments processed by or generated through a third-party money-transfer entity such as Western Union and MoneyGram;
- (d) Optional, Premium Payment Fee. A Provider may charge for optional, premium payment services if (i) the amount does not exceed the charge that the Provider applied for that service on December 31, 2014, (ii) the Provider continues to accept payment methods that are free of charge, and (iii) the Provider advises the consumer in clear and conspicuous language, during every transaction, of the amount of the charge and the availability of free payment options.

Rule 64.6090 Site Commissions

- (a) Beginning 24 months after the effective date of these rules, no Provider may pay a site commission that (i) is based on a percentage of ICS revenue, or (ii) is not calculated in accordance with subsection (b) of this rule.

- (b) Beginning on the effective date of these rules, a Provider may remit, in place of and not in addition to the payments described in subsection (a) of this rule, site commissions not to exceed an amount equal to \$0.____ per minute for completed, billed, inmate-initiated calls from the facility or facilities managed by the site commission payee. This per-minute additive may be added to the ICS rate and will not be considered part of the Provider's rate for purposes of Rule 64.6070.