

**Before the
Federal Communications Commission
Washington, D.C. 20554**

Rates for Interstate Inmate Calling Services

WC Docket No. 12-375

DECLARATION OF CURTIS L. HOPFINGER

Curtis L. Hopfinger deposes and states:

1. I am the Director – Regulatory and Government Affairs for Securus Technologies, Inc. (“Securus”), and my business address is 14651 Dallas Parkway, Sixth Floor, Dallas, TX 75254. I am the same person that provided a sworn Declaration in this proceeding dated March 22, 2013, and an Amended Declaration on March 27, 2013. I have personal knowledge of the matters stated herein and am competent to testify as to the same.

2. I have assisted counsel with the drafting of the Securus Reply Comments on DA 13-2445, *More Data Sought on Extra Fees Levied on Inmate Calling Services*. In addition, I have reviewed those Reply Comments.

3. I hereby affirm that the information about Securus’s fees and services that appear in Section II of those Reply Comments and in Attachment A thereto are true and correct.

4. I swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: July 24, 2013



Curtis L. Hopfinger
Director – Regulatory and Government Affairs
Securus Technologies, Inc.

ATTACHMENT A

Securus Tariffs

	Call Surcharge	Pay Telephone Charge (Per Call)	Third Party Payment Processors	Refund Processing Fee ¹	Monthly Billing Statement/ Processing Fees ²	Monthly Wireless Administration Fee*	Monthly State & Federal Regulatory Recovery Fees	Monthly State & Federal Universal Service Fund Fees ³
Interstate Tariffs	\$0.00 – \$11.00		\$7.95 Credit Card and Check-by-phone \$10.99 – Money Gram \$11.95 – Western Union \$4.95 – Cash at kiosk	\$4.95	\$3.49 – Statement Fee \$1.49 – Processing Fee	Up to \$2.99	\$3.49	\$1.00
Alabama	\$2.25							
Alaska	\$0.34 - \$0.60 ⁴ \$1.55		\$6.95 Credit Card and Check-by-phone				1.369% of billing ⁵	Yes, but amount not specified.
Illinois	\$2.50 - \$3.50	\$0.60	\$6.95 Credit Card and Check-by-phone	\$4.95	\$3.49	\$2.99		
Maryland	\$0.90 – 3.45	\$0.50	\$6.95 Credit Card and Check-by-phone		\$3.49	\$2.99		

¹ Securus has included this fee in some state tariffs but never imposes it.

² The Statement Fee applies only to consumers that are billed for inmate calls on their monthly Local Exchange Carrier bill. The Processing Fee appears in Securus Tariffs but is not imposed.

³ This fee has been replaced by, but is included in, a Federal Regulatory Recovery Fee of \$3.49 that is imposed only on consumers who accept interstate or international calls. The Federal Regulatory Recovery Fee covers the cost of federally imposed fees, such as the Number Portability Fee and FCC Annual Regulatory Fee. In addition, this fee assists in recovering the administrative cost of calculating, billing, collecting, and remitting Securus's Universal Service Fund contributions.

⁴ Incorrect. In Alaska, Securus imposes a Per-Call Charge for Intrastate Long Distance Collect Calls of \$1.55, plus an Initial Rate (for the first minute of the connected call) of \$0.34 to \$0.60 followed by an Additional Per-Minute Rate of \$0.13 to \$0.39. Both types of Per-Minute Rate vary by mileage.

⁵ The current rate is 2.693% of the amount billed for inmate calls, and all proceeds are remitted to the state. Securus does not retain any of this revenue.

Pennsylvania	Securus: \$1.50 T-Netix: \$1.00 – HITC**		\$6.95 Credit Card and Check-by-phone	\$4.95	\$3.49			
Tennessee⁶	Securus: \$3.95 T-Netix: \$4.09		\$6.95 Credit Card and Check-by-phone	\$4.95	\$3.49 – Statement fee \$1.49 – Processing fee	\$2.99	\$3.49	Federal \$1.00
Wyoming	\$1.50 - \$3.50	\$0.26	\$7.95 Credit Card and Check-by-phone	\$4.95	\$3.49	\$2.99	“Reserved right” to impose state cost recovery fee of up to 5%	Fee for State Service Fund

***Fee for having mobile phone number on account**

**** Highest Interexchange Transporter Charge**

⁶ Securus withdrew its Tennessee state tariff in 2009 when service was deregulated by statute. Per-Call Charges in Tennessee now range from \$0.50 to \$3.49.

ATTACHMENT B

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

PETITION TO COMMENCE RULEMAKING)
PROCEEDING FOR INSTITUTIONAL)
OPERATOR SERVICE PROVIDERS)
)
INMATE CALLING SOLUTIONS, LLC, AND)
PUBLIC COMMUNICATIONS SERVICES,)
INC.,)
Petitioners.)
_____)

Case No. 10-00198-UT

**MOTION TO REOPEN THE DOCKET AND MOTION OUT OF TIME TO
REQUEST RECONSIDERATION OF FINAL ORDER AND FINAL RULE**

GLOBAL TEL LINK CORPORATION (“GTL”), by and through its counsel of record, Lewis and Roca LLP (Jeffrey H. Albright and Samantha A. Updegraff), hereby file a motion to reopen the docket and a motion out of time to request for reconsideration of the November 8, 2012 *Final Order and Final Rule* (see Exhibit A). GTL requests the Commission to reconsider a single issue regarding Section 17.11.12.14(F) of the Final Rule. Section 17.11.12.14(F) states, in pertinent part, “[a]ny per call charge, surcharge or fee shall not be billed or charged by the IOSP before the second minute of the call begins” (“Free One-Minute Rule”). Inmate Calling Solutions, LLC d/b/a ICSolutions (“ICS”) supports this motion, and Securus Technologies, Inc. and T-Netix Telecommunications Services, Inc. (collectively, “Securus”) support the relief sought. Telecommunications Bureau Staff (“Staff”) reviewed this Motion prior to its submission and objects and reserves the right to file a response to the Motion within the time provided for by 1.2.2.12 NMAC. However, 1.2.2 NMAC does not apply to rulemakings. See 1.2.2.2 NMAC. As described more fully below, the Free One-Minute Rule was not

subject to the stipulations that were certified by the Commission on May 11, 2010¹. See Exhibit B for the stipulations. There is also no evidence in the record to support the Free One-Minute Rule and it is inconsistent with the Commission's own order regarding institutional operator service provider ("IOSP") rate issues. GTL's delay in filing this motion was due in large part to the Final Order and Final Rule of this proceeding clearly not being in final form. Following discussions with General Counsel and Staff, GTL understood that the Commission would be filing a rule in final form prior to it being published in the New Mexico Register. However, because the rule still has not been filed in final form and does not become effective until published in the New Mexico Register under NMSA Annotated in 1978, § 14-4-5, GTL is filing this Motion at this time to provide consistency with the Final Order as well as the rate caps approved on November 8, 2012 and avoid unnecessary and potentially costly litigation. Please note that Public Communications Services, Inc. ("PCS")² is also represented by Lewis and Roca LLP, but is not providing responsive comments in this proceeding.

¹ The *Certification of Stipulations* that were issued by the Commission on May 11, 2010 were in the following cases: *In the Matter of a Commission Inquiry into the Rates and Charges of Institutional Operator Service Providers* (Case No. 07-00316-UT); *In the Matter of an Investigation into the Billing Practices of Public Communications Services, Inc.* (Case No. 07-00364-UT); and *In the Matter of an Investigation of Non-Tariffed Charges of Institutional Operator Service Providers* (Case No. 07-00442-UT). The Commission issued an *Order to Amend Final Order Partially Approving Certification of Stipulation* on July 6, 2010.

² GTL made a stock purchase of PCS in November 2010. PCS retains its assets. GTL continues to abide by the provisions of the Stipulation reached between PCS and NMPRC Staff, including the rate caps that were part of the Stipulation and that were adopted by the Commission's Final Order and Final Rule on November 8, 2012, just prior to the NARUC Conference.

BACKGROUND

Background of Case No. 10-00198-UT (“Case No. 198”) (Rulemaking)

On January 19, 2012, the Commission issued a *Notice of Proposed Rulemaking (NOPR)* (see Exhibit C), commencing a rulemaking proceeding for the purpose of creating a rule under 17.11.12 NMAC governing the provision of telecommunications services by IOSPs.

The purpose of this rulemaking was to seek comments for developing a rule and regulations specifically applicable to all IOSPs that would address: establishing rate caps; developing phase-in language for existing contracts that IOSPs have at institutional facilities; creating consumer protection criteria; identifying and prescribing complaint procedures; developing transparency provisions to be used by IOSPs; addressing service quality issues; establishing notices and information at facilities; and establishing variance/waiver processes at the Commission.

The rule was to ensure that the IOSPs have tariffs on file that reflect all services and fees and that the IOSPs provide quality of service and customer protection to inmates and their families/sponsors. All IOSPs doing business within New Mexico, as well as any IOSP that might want to do business in New Mexico in the future, were encouraged to participate in this rulemaking proceeding, along with other entities and individuals.

This rulemaking came before the Commission pursuant to Decretal Paragraph C³ of the *Final Order Partially Approving Certification of Stipulation* issued by the

³ In the Certification, the Commission ordered that: As provided in the Certification, if Staff, PCS and ICS file amended Stipulations in accordance with this Final Order, Staff, PCS and ICS shall file and serve the Petition and draft Notice of Proposed Rulemaking ("NOPR") in accordance with Paragraph 29 of the PCS Stipulation and Paragraph 24 of the ICS Stipulation within 45 days of the issuance of this Final Order. Staff, PCS and ICS shall permit E&T and CTI to participate in the development of the draft NOPR if E&T and CTI desire such participation; provided, however, Staff, PCS and ICS shall be the only parties that are

Commission on June 24, 2010 (see Exhibit D) and involved three separate proceedings (Case Nos. 07-00316-UT, 07-00364-UT, and 07-00442-UT) concerning the provision of service by IOSPs, and the *Order to File Consensus Draft Rule* issued by the Commission in this case on December 23, 2010, see Exhibit E. Decretal Paragraph B of the *Order to File Consensus Draft Rule* (Exhibit E) directed PCS and ICS to file a Notice of Proposed Rulemaking in Case No. 10-00198-UT which "attaches a complete consensus, draft Rule Concerning Institutional Operator Service Providers no later than February 15, 2011." In addition to PCS, ICS and NMPRC Staff, other IOSPs were invited to participate in the development of the rule.

As ordered by the Commission, a *Notice of Compliance with Order to File Consensus Draft Rule* was filed by PCS and ICS on February 15, 2011, see Exhibit F. The *Notice of Proposed Rulemaking for the Purpose of Establishing a Rule for Institutional Operator Service Providers* was filed by the Commission on January 19, 2012.

On March 12, 2012, Staff filed its initial comments in this case with respect to the consensus draft rule filed by PCS and ICS on February 15, 2011. See Exhibit G for Staff's initial comments. Staff proposed alternative or additional language for certain sections of the consensus draft rule with which Staff took issue. Staff inserted the Free One-Minute Rule language in its initial comments filed March 12, 2012. Staff did not comment or provide an explanation as to why they inserted the Free One-Minute Rule, they merely inserted the language into the draft rule. Also on March 12, 2012, comments about the consensus draft rule were filed by three IOSPs, namely GTL and Securus

required to file and serve the Petition and draft NOPR. Nothing in this Final Order shall be construed to impair or limit E&T's and/or CTI's rights to file their own Petition and draft NOPR proposing alternative rate caps.

Technologies, Inc.⁴ and T-Netix Telecommunications Services, Inc. (collectively, "Securus") - and by the New Mexico Criminal Defense Lawyers Association ("NMCDLA"). The comments from the IOSPs and NMCDLA are provided in Exhibit H.

Staff filed additional comments on March 26, 2012 (see Exhibit I) to its proposed new rule and stated regarding the Free One-Minute Rule that:

Inmate telephone rates generally consist of rates or charges assessed per call along with further rates and charges assessed based on the duration of the call by the minute (or fraction of a minute). Staff believes that a relatively high proportion of inmate telephone calls are short calls. There have been some informal complaints at the Commission and at a correctional facility that suggest that short calls are sometimes unintentionally short. The assessment of per call charges to calls that are unintentionally short have a punitive impact on the paying consumer. To mitigate this impact and to incentivize the IOSP to provide reliable service, Staff believes any per call charge should not be billed or assessed by the IOSPs before the second minute of the call begins.

GTL filed a response and commented on the proposed rules for IOSPs on March 26, 2012 (see Exhibit J). In its response, GTL argued that:

A large expense for an IOSP for any single call involves the initial connection between the equipment and the switching interface with the landline provider. In order to be profitable, an IOSP depends on calls to be of some length. This proposed change would require that the Commission have the IOSP provide the service below cost. Moreover, based on testimony during the hearings, one can presume that institutional members would "game" the system, ensuring that calls were less than two minutes, hang up, initiate another call of less than two minutes, etc. This would also negate any call surcharge that is included in the tariffed rates, fees and charges and which were deemed by both the Stipulation and the Recommended Decision in Case No. 07-00316-UT to be fair, just and reasonable.

A public hearing on the proposed rule language was held on May 2, 2012 at the offices of the Commission before Commissioner Jason A. Marks. See pertinent remarks

⁴ Evercom Systems, Inc. notified the Commission by letter dated October 12, 2010, that it was changing its name to Securus Technologies, Inc., effective October 22, 2010.

from the hearing in Exhibit K. The following entities appeared and presented comments at the public hearing: GTL, Securus, NMCDLA, and NMPRC Utility Division Staff.

During the hearing, Ms. Joyce raised the proposal by Staff of having the first minute free. Specifically, she stated:

With regard to Staff's proposed changes that surround limited calls, for example, we haven't discussed this, but I did want to raise it. That all calls will be free for the first 60 seconds, because Staff would want billing to start on the 61st second, so that's first minute of every call would be free. And then within the reporting section, which is part 19, they would want annual reports of calls that were a minute or less. As Securus stated in its comments, the statute requires that the Commission has a record for making a rule, and there's no evidence in the record that either of those rules are needed. They are expensive. They are burdensome. There has not been – there has been far from a rash of complaint about short calls. In fact, Securus researched this this morning. Since January 1, 2010, there have been only four complaints. They were informal, lodged either here or the Better Business Bureau. So with those two tribunals only four complaints since January 1, 2010, and only one of them alleged an improperly disconnected call. So I don't think there's basis to adopt very expensive and onerous changes that Staff requested. Case 10-00198-UT, Transcript of Hearing at 95:20-96:18 (May 2, 2012).

There followed more discussion regarding the free one-minute calls. Specifically, Mr. Albright brought up the point that a large portion of costs that the IOSB bears is within the first minute and thus, if the free one-minute were imposed, the entire rate structure of the rest of the caps and the rates and fees and so forth that would be charged would have to be revised because it would skew the numbers substantially.

After hearing these arguments, Commissioner Marks engaged in this colloquy with Mr. Reynolds:

Q. “Okay. Mr. Reynolds, when – they raised the concern that if you allow one-minute calls with no charge we will have a plethora of inmates gaming it to make a lot of one-minute calls. Do you have any reason to believe that’s not a reasonable concern?”

A. “I don’t know that – the basis of that judgment. That doesn’t strike me as all that reasonable, no.”

The Commissioner continued:

Q. “Okay. Mr. Reynolds, I – I don’t know the way the Commission is going to go on this. I’m not – I see more problems here. I see that this really is an enforcement issue. If we were able to identify an IOSP that was routinely dropping calls and forcing redials, we could fine them under these rules, right?”

A. “I believe so.”

Tr. at 98:13-21, at 100:3-10.

The Commissioner suggested that Staff initiate some investigations to look at call data to determine patterns of call practices to see if there is dropping going on. He also stated that he thought that the PRC should use a deterrent of fining rather than something that would prove somewhat unworkable.

That was the last discussion of the Free One-Minute Rule. The rule was then inserted into the Final Rule which was included with the Final Order of November 8, 2012. The Free One-Minute Rule was never fully investigated or supported by evidence before approval in the Final Rule. It was not the subject of discussion by the General Counsel’s office or the Commissioners at the November 8, 2012 Open Meeting, and the

form of the rule was not available to the IOSPs when it was presented to the Commissioners.

Background of Case No. 07-00364-UT (“Case No. 364”) (Final Order Partially Approving Certification of Stipulation issued June 24, 2010)

Case No. 364 commenced on September 11, 2007, pursuant to an *Order to Show Cause*. PCS was the only party in Case No. 364. The Commission’s order was the result of a complaint by an individual named Ms. Borunda concerning unauthorized billings and charges by DTech Billing Service, L.L.C., (“DTech”) a registered Texas domestic limited liability⁵. On September 13, 2007, PCS ceased sending call usage records for collection to DTech upon learning of the complaint. *Public Communications Services, Inc.’s Response to Bench Request Order of October 22, 2007* at ¶ 3. PCS, on its own initiative, terminated its nationwide contract with DTech on October 2, 2007.

After a PCS investigation, PCS learned that DTech had, without PCS’s knowledge, charged consumers late fees. The unauthorized late fees and charges paid to DTech by New Mexico consumers total \$94,907.63 from 5,159 customers (making no deduction for the authorized late fee charges allowed under PCS's tariff). PCS itself received no payment and no benefit from these unauthorized late fees or charges, which went solely to DTech.

As a result of DTech's actions, PCS: (1) terminated its nationwide contract with DTech; (2) sent a letter and check to Ms. Borunda for payments she made to DTech for the unauthorized late charges and fees (without deduction for the 1.5%

⁵ DTech was an independent contractor that provided collection services for the small percentage of “unbillable” calls made from inmate facilities where the called number is not in ILEC territories, or is not otherwise covered in the contracts held between the billing entities and the ILECs.

late fee authorized by PCS's tariff); (3) commenced a comprehensive program of payments to all consumers of PCS services who paid more than \$1.00 in unauthorized late charges or fees to DTech, despite the fact that PCS did not benefit from these unauthorized charges and was not responsible for imposing them; (4) confirmed with its billing clearinghouse companies that the usage charges passed on by PCS are passed on to the ILECs consistent with PCS's tariffs; and (5) confirmed that the Consumer Relations Division of the PRC has current customer service representative information on file for PCS, and that the PRC Consumer Relations Division will contact a PCS customer service representative or local PCS counsel if any residual complaints are filed against DTech.

PCS then subsequently worked with the PRC Commission and Staff to resolve Case No. 364. Case No. 364 is now settled and closed.

Background of Case No. 07-00442-UT (“Case No. 442”) (Final Order Issued June 2, 2011)

Case No. 442 was initiated pursuant to an *Order to Show Cause* dated December 6, 2007 to PCS. The *Order to Show Cause* initiated an inquiry concerning an optional service fee that was charged by a third party vendor to set up and to recharge a prepaid service account with PCS. The Commission inquired into allegations relating to an IOSPP of potential violations of Commission rules and applicable law as set forth therein including, but not necessarily limited to, those relating to notice of rate or fee increases or new charges for existing services, fair marketing practices, non-approved charges, and/or changes in established rates without prior notice and Commission approval. On May 11,

2010, the Hearing Examiner filed a Certification of Stipulations and on May 14, 2010, an Errata Notice to Certification of Stipulations.

On June 1, 2010, PCS and Securus each filed *Exceptions to Certification of ICS' Joint Response to CTI and Securus Exceptions to Certifications of Stipulations*. Also on that date, Staff filed a *Response to Exceptions to Certification of Stipulations* previously filed by Securus and CTI. On June 2, 2010, PCS, on behalf of itself and ICS, filed a *Notice of Correction to Response to Exceptions* previously filed on June 1, 2010.

On June 24, 2010, the Commission issued a *Final Order Partially Approving Certification of Stipulation*. On July 1, 2010, the Commission filed an *Errata Notice to Final Order Partially Approving Certification of Stipulation*. On July 6, 2010, Staff filed a *Notice of Filing of Amended Joint Stipulation between ICS and Staff*. Also on that date Staff filed a *Notice of Filing of Amended Joint Stipulation between PCS and Staff*. See Exhibit L. On the same date, July 6, 2010, the Commission issued an *Order to Amend Final Order Partially Approving Certification of Stipulation*. The approved Stipulation stated that "PCS will be excused from any further briefing requirements, hearings, or other activities or proceedings (with the exception of a prospective hearing on this Stipulation) in Case Nos. 316, 364, and 442. Case Nos. 316 and 442 shall be deemed dismissed as to PCS upon issuance of a Commission Order approving this Stipulation". Case 442 has been closed.

Status of Case Nos. 364 and 442

These cases have been resolved per the *Order to Amend Final Order Partially Approving Certification of Stipulation* filed July 6, 2010 in Case Nos. 364 and 442 (see Exhibit M) and the *Final Order* closing the docket filed June 2, 2011 in Case No. 442.

Background of Case No. 07-00316-UT (“Case No. 316”)

Case No. 316 was initiated as an inquiry into the rates and charges of IOSPs offering services within New Mexico to determine whether there was a cost basis for the rates being charged. Staff filed its Petition pursuant to NMSA 1978, § 8-8-12.1(B)(4) and 1.2.25 NMAC to commence a renewed inquiry into the rates and charges of IOSPs. IOSPs provide operator assisted telecommunication services to inmates in correctional facilities pursuant to contract between the correctional facility and the IOSP. On June 24, 2010 as stated above, the Commission issued a final order partially approving the Certification of Stipulation.

Subsequent to the July 6, 2010 *Order to Amend Final Order Partially Approving Certification of Stipulation*, the Commissioner ordered a remand to the Hearing Examiner for the limited purpose of developing a record on the issue of an appropriate rate-of-return that should be included in Securus’s new rates. Exceptions were filed by Securus to the recommended decision of the Hearing Examiner. There has been no Final Order on the issue of an appropriate rate-of-return and the case is still pending. The Joint Petition to Commence Rulemaking filed July 1, 2010, was authored and signed by both PCS and ICS.

Status of Case No. 316

Since the November 8, 2012 Final Rule was issued in the present Case No. 198, Case No. 316 has had no pleadings filed and there has been no action on the case. The last substantive filing in Case No. 316 was on April 1, 2011 and was a Staff *Response to Securus' Exceptions to Amended Recommended Decision*.

Notwithstanding ICS and GTL/PCS no longer being parties to Case No. 316, in a review of Case No. 316 and subsequent pleadings and filings since ICS' and GTL's release from that case, none of the 46 pleadings or filings discuss or even contemplate a Free One-Minute Rule.

No Evidence or Analysis of the Effect of the Free One-Minute Rule

Staff, in its March 26, 2012 comments regarding the Free One-Minute Rule, alleged that "Staff believes that a relatively high proportion of inmate telephone calls are short calls. There have been some informal complaints at the Commission and at a correctional facility that suggest that short calls are sometimes unintentionally short". However, no data or evidence was included to determine what is meant by "high proportion" or what percentage of calls are unintentionally short calls. Further, there was no information given regarding the "informal complaints at the Commission". There was simply no data or evidence to support Staff's "beliefs that there is a relatively high proportion of inmate telephone calls are short calls". In addition, as stated by Ms. Joyce in the hearing on May 2, 2012, from January 1, 2010 to May 2, 2012, there had been only four complaints regarding any aspect of its service. The complaints were informal, with two filed at the Commission and two filed with the Better Business Bureau. **Only one of**

them alleged an improperly disconnected call. One complaint in 28 months is not enough to warrant such a disproportionately adverse rule for IOSPs.

Costly and Burdensome

As stated in GTL's March 26, 2012 comments, a large expense for an IOSP for any single call involves the initial connection between the equipment and the switching interface with the landline provider. In order to be profitable, an IOSP depends on calls to be of some length. This proposed change would require that the Commission have the IOSP provide the service below cost. IOSPs cannot provide service below cost and the Free One-Minute Rule is below cost. It would also require a complete re-evaluation/restructure of the rate caps agreed to and approved by the Commission.

Further, the first minute of each call incurs the most cost to an IOSP because of initial call setup functions. Some of these functions include the Line Information DataBase (LIDB) dip which is used to verify subscriber information and the activation of other software functions used to monitor and activate security features at the institution for inmate calls.

Commission's Rate Structures Fail to Consider the Free One-Minute Rule

After years of pleadings and testimony in Case Nos. 316, 364 and 442, none of the rate structures, rate caps, tariffed rate and fees and charges take into consideration the Free One-Minute Rule. The Commission simply never considered a free first minute when structuring and deciding appropriate rates, surcharges and caps for IOSPs. The Free One-Minute Rule is inconsistent with the Commission's own recommendations with regard to IOSP rate issues.

For example, in the Final Rule issued on November 8, 2012, the Commission included Addendum A, consisting of the Rate Cap schedule that was adopted in the Final Rule. However, the Rate Cap schedule does not contemplate free minutes or take into account the Free One-Minute Rule. There is a logical inconsistency with respect to the Final Order and Final Rule and the approval of the rate caps. In Addendum A, each Prepaid Inmate, Prepaid Collect and Collect call costs \$0.15 per minute, which includes the first minute. These rate caps were taken from the July 6, 2010 Amended Joint Stipulation Between PCS and Staff⁶ (“PCS and Staff Stipulation”) (See Exhibit N), at page 7, paragraph 23, and did not take into consideration the Free One-Minute Rule, as there was no discussion, analysis or evidence of the Free One-Minute Rule in the PCS and Staff Stipulation. Again, the Free One-Minute Rule was never discussed or contemplated in Case Nos. 316, 364 and 442. The Commission simply did not consider the affect that the First One-Minute Rule would have on IOSPs in light of the approved Rate Caps of Addendum A.

In another example, the November 4, 2010 Recommended Decision of the Hearing Examiner in Case No. 316, determined that all rates and charges expressly approved by this Recommended Decision may continue to be charged. All rates and charges not approved shall be replaced with the just and reasonable rates and charges approved in this Recommended Decision. The rate and charges approved in the Recommended Decision includes per minute rates wherein the first minute is not free. See pertinent pages from the Recommended Decision in Exhibit M.

⁶ Also filed on July 6, 2010 was an Amended Joint Stipulation Between ICS and NMPRC Utility Division Staff.

In this specific example, the Hearing Examiner ruled in his Recommended Decision of the Hearing Examiner that Conversant (“CTI”) had rates that were just and reasonable. CTI rates include per minute rates wherein the first minute is not free. For example, for an IntraLATA collect call, CTI’s per-call charge is \$1.25 and its per-minute charge is \$0.19, so that a 15 minute collect call costs \$4.10. For IntraLATA calls, the per-minute charge is \$0.25 and there is no per-call charge. Having considered the evidence concerning CTI’s rates and costs, and finding that Mr. Profanchik’s (President and Chief Executive Officer of CTI) testimony was candid and credible, the Commission found that a preponderance of the evidence supported the conclusion that CTI’s rates were just and reasonable. Accordingly, no changes were necessary to CTI’s rates or tariffs. See pages 105-106 of the Recommended Decision of the Hearing Examiner. These just and reasonable rates did not include the Free One-Minute Rule. No discussion of the Free One-Minute Rule was made by the Hearing Examiner or by Staff when the Hearing Examiner presented his Recommended Decision to the Commission.

With the addition of the Free One-Minute Rule, the above rates are no longer just and reasonable.

In addition, on November 8, 2012, the same day the Final Order and Final Rule were released, Securus made a further submission in Case No. 198 with regard to the rate issues. See Exhibit N – Securus’s Further Submission filed November 8, 2012. Securus stated that it believed the rate caps previously adopted by stipulation for PCS and ICS would not enable Securus to recover its cost of service at several correctional facilities in New Mexico. Securus stated that it was unclear from the presentation and statements made in the November 8, 2012 Regular Open Meeting which rate structure is being

adopted in the proceeding. Thus, like GTL, Securus would also not be able to recover its costs of service if the rate caps in Addendum A are adopted in addition to the Free One-Minute Rule.

Moreover, during the November 8, 2012 Regular Open Meeting (“Meeting”), some discussion arose as to the rate caps that the Commission would be adopting for IOSPs in the proceeding. It was unclear from the presentations and statements made during the Meeting which rate structures were being discussed and whether they took into account the Free One-Minute Rule. The rates under consideration were not supplied to the gallery, so it was unclear to the gallery what was being reviewed during the Meeting. Thus, GTL does not know what rate structures were being reviewed or if the Free One-Minute Rule was also being considered in the November 8, 2012 Meeting.

“Gaming” the System

GTL knows from decades of experience that inmates will “game” the system. Commissioner Marks understood this risk. Tr. at 98:13-18. A lot of information can be relayed in less than one minute. Plus it is unknown how many one minute calls an inmate is allowed to make in any given day. The length of calls and frequency and other such criteria are determined by each specific facility. An inmate can simply call someone and hang up in less than a minute and then call them back if not all the information was relayed in time. These issues were never fully investigated. There was no evidence presented regarding how the Free One-Minute Rule could be used or abused by inmates.

In addition, there has previously been experience with inmates “gaming” the system using the few seconds available to state their name on a call to actually pass along a brief phrase and then use a series of call attempts to deliver their message without ever

completing a call. This behavior forced ICS to prerecord the inmates' names for subsequent calls giving them no mechanism to customize their message for each call.

Free One-Minute Rule is Unjust and Unreasonable

The New Mexico Public Utility Act (PUA) define "rate" as:

Every rate, tariff, charge or other compensation for utility service rendered or to be rendered by a utility and **every rule, regulation, practice, act, requirement or privilege in any way relating to such rate, tariff, charge** or other compensation and any schedule or tariff or part of a schedule or tariff thereof. (emphasis added)

When the Commission sets a rate, that rate must be "just and reasonable". NMSA 1978, § 62-8-1 (1941). Under the PUA, a rate is "just and reasonable" when it balances the investor's interest against the ratepayer's interest. See *Attorney General v. Public Regulation Com'n*, 2011-NMSC-034, 10 N.M. 174, 178 (2011), see also *In re PNM*, 2000-NMSC-012, ¶ 8. Only when a rate falls within a "zone of reasonableness...between utility confiscation and ratepayer extortion" can the rate be "just and reasonable". *Id.* See also, *Behles v. N.M. Pub. Serv. Comm'n*, 114 N.M. 154, 161 (1992).

The appropriate factors to determine whether a proposed rate falls within the zone of reasonableness are "based on [the utility's] revenue requirements: the costs of supplying the fuel and profit for the utility in an amount sufficient to encourage investment". See *Attorney General v. Public Regulation Com'n*, 10 N.M. 174, 179 (2011), see also *El Paso Elec. Co. v. N.M. Pub. Regulation Com'n*, 149 N.M. 174 (2010).

The Free One-Minute Rule is clearly a rate in this case as it is a rule that relates to a telecommunications service tariffed rate. Thus, the Free One-Minute Rule rate must be

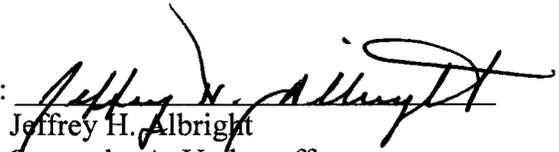
“just and reasonable”. Because the Commission failed to inquire into how the IOSPs’ revenue requirements would be affected by the Free One-Minute Rule and because the Commission failed to consider any evidence as to how the Free One-Minute Rule rate would affect the IOSPs and because the Commission failed to consider how the Free One-Minute Rule would affect the rate and other surcharges, the Commission failed to adequately balance the investors’ interests against the ratepayers’ interests when adopting the Free One-Minute Rule. Thus, the Commission’s adoption of the Free One-Minute Rule is arbitrary and capricious and unlawful in that it was not evidence-based or cost-based.

WHEREFORE, GTL requests the Commission to reopen the docket and to reconsider and remove the Free One-Minute Rule from the approved rule.

Respectfully submitted,

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June 10, 2013

BY HAND DELIVERY

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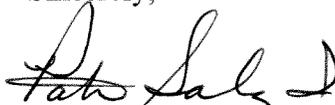
**RE: PETITION TO COMMENCE RULEMAKING PROCEEDING FOR INSTITUTIONAL
OPERATOR SERVICE PROVIDERS INMATED CALLING SOLUTIONS, LLC AND PUBLIC
COMMUNICATIONS SERVICES, INC.; CASE No. 10-00198-UT**

Dear Sir or Madam:

Enclosed for filing in the above-referenced matter please find the original and seven copies (two to conform and return) of (i) Securus Technologies, Inc and T-Netix Telecommunications Services, Inc.'s Response in Support of Motion to Reopen and Motion for Reconsideration of Final Order and Final Rule and (ii) Certificate of Service for same.

Thank you for your assistance.

Sincerely,


Patricia Salazar Ives

Enclosures

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**PETITION TO COMMENCE RULEMAKING
PROCEEDING FOR INSTITUTIONAL
OPERATOR SERVICE PROVIDERS**

Case No. 10-00198-UT

**INMATE CALLING SOLUTIONS, LLC, AND
PUBLIC COMMUNICATIONS SERVICES, INC.**

**SECURUS TECHNOLOGIES, INC. AND
T-NETIX TELECOMMUNICATIONS SERVICES, INC.
RESPONSE IN SUPPORT OF MOTION TO REOPEN AND
MOTION FOR RECONSIDERATION OF FINAL ORDER AND FINAL RULE**

Securus Technologies, Inc. and T-Netix Telecommunications Services, Inc. (collectively, “Securus”), through counsel, file this response in support of the Motion to Reopen and Motion Out of Time to Request Reconsideration of Final Order and Final Rule filed by Global Tel*Link on May 29, 2013 (“Motion to Reopen”). The Motion to Reopen seeks very narrow relief: to remove subpart 17.11.12.14(F) from the Final Rule for Institutional Operator Service Providers (“IOSPs”) – called the “Free One-Minute Rule” – that was approved by voice vote of the New Mexico Public Regulation Commission (“Commission”) during its regular Open Meeting held on November 8, 2012.

SUMMARY

Securus supports Global Tel*Link in its request for reconsideration of the portion of the Final Rule (17.11.12.14(F)) that would require all IOSPs to provide the first minute of every inmate-initiated phone call for free. This portion of the rule was adopted without evidence, without discussion, and even without the support of the Commissioner who presided over the hearing in this rulemaking that was held on May 2, 2012.

As explained below, the Commission fell short of its statutory obligations, in both

procedure and substance, when adopting the Free One-Minute Rule, warranting reconsideration and reversal of that portion of the Final Rule.

BACKGROUND

Subpart 17.11.12.14(F), the Free One-Minute Rule, states that, “**Any per call charge, surcharge or fee shall not be billed or charged by the IOSP before the second minute of the call begins.**” This would mean that the first full minute of every inmate’s phone conversation, *after the call has been positively accepted*, would be free from every correctional facility in New Mexico.

As the Commission is aware, the Final Rule was largely the product of several productive meetings between Staff, Securus, Global Tel*Link, Public Communications Services, Inc. (“PCS”), and Inmate Calling Solutions d/b/a ICSolutions LLC (“ICS”). The parties found a good deal of common ground, and the vast bulk of the Final Rule was unanimous.

The Free One-Minute Rule was discussed during the meetings. The carriers explained in depth why they could neither agree with nor reasonably implement such a requirement. For this reason, the Free One-Minute Rule was not included in the proposed form of rule that was published with the Notice of Proposed Rulemaking issued January 19, 2012.

Staff added the Free One-Minute Rule to its own draft of the Final Rule that was filed with its Initial Comments on March 12, 2012. Staff did not explain its position in those comments and did not provide any data or other evidence that would support what essentially is a statewide mandate for free telephone service. *See* Motion to Reopen Ex. G.

Securus, Global Tel*Link, PCS, and ICS opposed Staff’s Free One-Minute Rule in their written Reply Comments. *See* Motion to Reopen Ex. H. Securus and Global Tel*Link also provided oral comments opposing the Free One-Minute Rule at the May 2 hearing. *See*

Motion to Reopen Ex. K (excerpt from Transcript of Hearing).

STANDARD OF REVIEW

The New Mexico Administrative Procedures Act (“APA”) requires that “[u]pon adoption of a rule contested at hearing or otherwise, the agency shall issue a concise statement of its principal reasons for adoption of the rule and a statement of positions rejected in adopting the rule together with the reasons for the rejections[.]” NMSA 1978, § 12-8-4(A)(3).

Further, Commission-imposed utility rates must be supported by “substantial evidence”. *El Paso Electric Co.*, N.M.P.R.C. Case No. 08-00219-UT, Final Order, 2008 WL 5744186 ¶ 21 (Dec. 23, 2008) (setting aside electricity rate); *In re Pub. Serv. Co. of N.M.*, N.M.P.R.C. No. 08-00221-UT, Final Order, 2008 WL 5744187 ¶ 13 (Dec. 23, 2008) (rejecting electricity rate and referring issue to rulemaking docket).

In addition, the Commission should not adopt orders or rules that “are arbitrary and capricious, not supported by substantial evidence, outside the scope of the agency’s authority, or otherwise inconsistent with law.” *New Mexico Indus. Energy Consumers v. PRC*, 142 N.M. 533, 538, 168 P.3d 105, 110 (2007) (finding the agency’s decision to be “unlawful”); *Public Serv. Co. of N.M. v. N.M. Pub. Util. Comm’n*, 128 N.M. 309, 312, 992 P.2d 860, 863 (1999) (same).

Rates that do not enable a utility to recover its costs and make a reasonable profit are an unlawful regulatory taking and a substantive infringement of due process in violation of the United States and New Mexico Constitutions. *Mountain States Tel. & Tel. Co. v. N.M. State Corp. Comm’n*, 90 N.M. 325, 334, 563 P.2d 588, 597 (1977) (reversing and remanding Commission order on electricity rates). “It is a well-established principle that private property may not be taken for public use without just compensation.” *Id.* (citing U.S. Const. amends. V

and XIV; N.M. Const. art. 2, § 20). “The failure of a regulatory commission to provide for rates that will provide a reasonable rate of return therefore constituted a violation of due process.” *Id.*; *see also In re General Tel. Co. of S.W.*, 98 N.M. 749, 753-54, 652 P.2d 1200, 1204-05 (1982) (remanding Commission rate decision).

DISCUSSION

This Free One-Minute Rule is unprecedented, and for good reason. It is unsupportable and unlawful on several grounds:

1. The Commission failed to comport with NMSA 1978, § 12-8-4(A)(3), because it provided no “statement of its principal reasons” for adopting the Free One-Minute Rule.
2. The Free One-Minute Rule unlawfully would require IOSPs to provide service free of charge.
3. The record contains no evidence of harm to consumers that would warrant adoption of the Free One-Minute Rule.
4. The Free One-Minute Rule would, as Commissioner Marks recognized, result in inmates “gaming the system” by placing multiple one-minute calls to the same telephone number in order to avoid call charges. This conduct would imperil prison security and likely preclude IOSPs from earning any calling revenue at all.

Securus will discuss each of these reasons in turn. Any one of them is sufficient to reconsider and strike the Free One-Minute Rule.

I. THE COMMISSION FAILED TO EXPLAIN ITS GROUNDS FOR ADOPTING THE FREE ONE-MINUTE RULE AND THUS CONTRAVENED NMSA 1978, § 12-8-4(A)(3)

As stated above, the New Mexico APA requires the Commission, when adopting a “contested” rule such as the Free One-Minute Rule, to “issue a concise statement of its principal reasons for adoption of the rule and a statement of positions rejected in adopting the rule together with the reasons for the rejections[.]” NMSA 1978, § 12-8-4(A)(3). The Final

Order and Final Rule, provided as Exhibit A to the Motion to Reopen, contain no discussion or explanation of the Free One-Minute Rule. For this reason alone, the Free One-Minute Rule should be reconsidered and struck.

The following is the entirety of the Commission's analysis in adopting the Final Rule which comprises 17.11.12.1 through 17.11.12.24 plus the rate Addendum:

10. We have reviewed all of the comments submitted before and during the hearing, as well as all materials filed in accordance with the oral order of the presiding Commissioner at hearing regarding post-hearing submissions.

11. Staff observed in its initial filed comments that the February 15, 2011 consensus draft rule as filed by PCS and ICS did not include alternative language for those sections of the rule where no consensus was reached. Staff proposed alternative or additional language for certain sections of the consensus draft rule that Staff did not support. In its subsequent response comments, Staff stated that it and a number of IOSPs participated in extensive discussions to reach a consensus on a draft rule, and that, while a consensus was reached for the "lion's share" of a draft rule, Staff had concerns with a small number of critical provisions that generally pertain to the transparency of terms and conditions of inmate telephone service and to the impact of a per-call rate structure on unintentionally short calls. Staff set forth its concerns in its response comments.

12. Having reviewed those portions of the rule language submitted by Staff in its initial comments, we find that much of Staff's proposed language has merit, is consistent with our purpose in this rulemaking, and should be adopted.

The Free One-Minute Rule is never identified. The IOSPs' unanimous opposition to the Free One-Minute Rule is never acknowledged. The rationale for the Free One-Minute Rule is never provided. And no evidence that could support the Free One-Minute Rule is cited.

The APA required the Commission to do a great deal more here. The IOSPs presented credible and important arguments urging the Commission to reject Staff's proposal. Securus, for example, argued that

No other court, commission, or agency has ever even considered

such a requirement. It would cost IOSPs millions of dollars. In addition, such a requirement would cause chaos at facilities: inmates would tie up phones for long periods to continuously place multiple one-minute, calls to the same telephone number in order to avoid call charges.

Securus Reply Comments at 14. The Commission ignored these points. That lack of process violates NMSA 1978, § 12-8-4(A)(3), warranting reconsideration of the Free One-Minute Rule.

II. THE FREE ONE-MINUTE RULE WOULD CREATE AN UNCONSTITUTIONAL TAKING AND A SUBSTANTIVE INFRINGEMENT OF IOSPs' RIGHT TO DUE PROCESS

Subpart 17.11.12.14(F) would prohibit IOSPs from billing the first 60 seconds of a connected, validly accepted call. It would mandate free telephone service. There can be no more stark example of a regulatory taking than this rule.

Forcing carriers to provide service without fair compensation violates the United States and New Mexico Constitutions. *Mountain States* (1977), 90 N.M. at 334, 563 P.2d at 597; *General Tel.* (1982), 98 N.M. at 753-54, 652 P.2d at 1204-05. It contravenes both the Taking Clause and the Due Process Clause. *Mountain States* (1977), 90 N.M. at 334, 563 P.2d at 597 (citing U.S. Const. amends. V and XIV; N.M. Const. art. 2, s 20).

In *Mountain States* (1977), the Supreme Court of New Mexico reversed and remanded the decision of the State Corporation Commission (“SCC”) denying a telephone rate increase. The Court began by stating that “[t]he Commission has a duty to be a prima mover [*sic*] in the procedure to see that the public interest is protected by establishing reasonable rates and **that the utility is fairly treated so as to avoid confiscation of its property.**” 90 N.M. at 331, 563 P.2d at 594 (emphasis added). Stated differently, the SCC was required to “insure that the public has fair telephone rates and that the utility is fairly treated.” 90 N.M. at 332, 563 P.2d at 595.

There, the SCC previously had held that Mountain States Telephone was entitled to an 11.7% rate of return, but it never approved rates that would have realized that return. Accordingly, the Court found, Mountain States suffered “irreparable loss of revenue ... failure to increase the rates was **an unconstitutional confiscation of the Company’s property without due process of law.**” 90 N.M. at 335, 563 P.2d at 598 (emphasis added). The SCC’s decision not to permit the rate increase was reversed.

Five years later, the Supreme Court issued a similar decision in *General Tel* (1982). The SCC had rejected General Telephone’s revised tariff on the ground that it resulted in an unreasonable aggregate revenue increase. In issuing that rejection, the SCC decreased, without warning, General Telephone’s permitted rate of return. In essence, the SCC decided to “deny an increase in rates in an amount which it has first found to be just, fair and reasonable.” 98 N.M. at 758, 652 P.2d at 1209.

As in *Mountain States* (1977), the *General Tel* Court began its review by stating that, although the SCC is required to set rates that protect the public, “[o]f equal dignity is the established principle of law that the failure of the SCC to provide rates that will give the company a reasonable rate of return constitutes **a violation of due process and a taking of property without just compensation.**” 98 N.M. at 753, 652 P.2d at 1204 (emphasis added). In addition, the effective rate decrease marked a “radical departure from past practice” regarding General Telephone’s rates which in itself was unreasonable. 98 N.M. at 756, 652 P.2d at 1207. The SCC’s sudden reduction in General Telephone’s permitted return was deemed unlawful, and the rejection order was remanded.

Here, the Commission has adopted a rule that is absolutely sure to decrease IOSP revenue in addition to establishing new IOSP rates that, in some cases, already constitute a

drastic rate cut. The Free One-Minute Rule is unprecedented in the U.S. inmate telecommunications industry and thus necessarily represents a radical change in Commission rate policy. The Commission failed even to acknowledge these facts, let alone to justify them. For these additional reasons, the Free One-Minute Rule should be struck from the Final Rule.

III. THE RECORD PROVIDES NO BASIS FOR ADOPTING THE FREE ONE-MINUTE RULE

The record in this case contains no evidence that the Free One-Minute Rule would be helpful or necessary. Its proponents failed, despite several opportunities, to give the Commission any grounds on which to base the rule. As such, the Commission lacked any reasonable basis to adopt Subpart 17.11.12.14(F). *E.g., New Mexico Indus. Energy Consumers*, 142 N.M. at 538, 168 P.3d at 110; *El Paso Electric Co.*, 2008 WL 5744186 ¶ 21.

For purposes of this rulemaking, Staff gave no explanation for the Free One-Minute Rule until their Reply Comments. In those Reply Comments, Staff alleged that “[t]here have been some informal complaints at the Commission and at a correctional facility that suggest that short calls are sometimes unintentionally short.” Staff Reply Comments at 6.

Securus researched that allegation in advance of the May 2, 2012 hearing. It found only **one complaint**, to either this Commission or to the Better Business Bureau, alleging an improperly disconnected call. **One complaint** during the period **January 1, 2010 through May 1, 2012**. *See* Motion to Reopen at 6 (quoting Transcript of Hearing at 95:20-96:18 (May 2, 2012)). This evidence sharply refutes Staff’s allegation and indeed Staff’s entire purported reasoning for the Free One-Minute Rule.

As Securus stated in its Reply Comments, during the Final Rule negotiations, Staff advanced the Free One-Minute rule by reliance on “the anecdotal information it had learned from other agencies regarding calls that allegedly were wrongfully disconnected.” Securus

Reply Comments at 14. This “anecdotal information” did not identify any particular facility, any particular inmate, any particular call, or any particular complaint. Truly, it would be more accurately characterized as a blank allegation. And that is all that Staff, who insisted on adding the Free One-Minute Rule, could supply the Commission. Plainly the Commission’s adoption of the Free One-Minute Rule was unreasonable.

Moreover, the purported – unsubstantiated – harm to consumers from “unintentionally short” calls (Staff Reply Comments at 6) was addressed directly by Securus during the comment period. In its Reply Comments, Securus stated that it “already has a customer service policy of providing refunds where a call was disconnected improperly, and as such Staff’s unexpressed concern already has a means for resolution.” Securus Reply Comments at 14. This statement was never challenged. Thus, the record demonstrates that the Free One-Minute Rule is not only a taking, but also has no support.

For this additional and independent reason, the Free One-Minute Rule (17.11.12.14(F)) should be struck.

IV. THE FREE ONE-MINUTE RULE INVITES “GAMING THE SYSTEM” THAT WOULD COMPLETELY DEPRIVE IOSPs OF ALL REVENUE AND IMPACT PRISON SECURITY

Commissioner Marks recognized, **and Staff expressly conceded**, that the Free One-Minute Rule will result in inmates making multiple 60-second calls, all of them free, and thus getting phone service entirely for free. This obvious and legitimate concern in itself should have prevented the insertion of the Free One-Minute Rule into the Final Rule.

As stated in the Motion to Reopen, Commissioner Marks presided over the May 2 hearing. Motion to Reopen at 7. When Securus, through counsel, raised the Free One-Minute Rule, Commissioner Marks noted “That was on my list.” Hearing Tr. at 96:19-20 (Motion to

Reopen Ex. K). Securus explained its opposition to the proposed new rule, and Global Tel*Link joined in that opposition. Motion to Reopen at 6; Hearing Tr. at 96:4-18, 98:3-12.

Commissioner Marks then asked Staff:

“Mr. Reynolds ... we will have a plethora of inmates gaming it to make a lot of one-minute calls. Do you have any reason to believe that’s not a reasonable concern?”

Mr. Reynolds conceded the point by replying that **“there’s gaming all around the correctional facilities.”** *Id.*

Thus, the drafter of the Free One-Minute Rule admitted that the likely result would be abuse of the system by inmates. Commissioner Marks’s concern was bolstered by Staff’s own testimony. The Commission nonetheless inserted the Free One-Minute Rule into the Final Rule.

Free one-minute calls will all but ensure that (1) IOSPs obtain little or no revenue for the telephone service that inmates use, and (2) significant disruption will come to the correctional environment. Securus warned of this result in its Reply Comments. Inmates will dial the same party over and over again, conducting entire conversations free of charge. The phones will be tied up ceaselessly for this activity, causing frustration among the inmates. If correctional facilities try to thwart this abuse, that effort would consume hours and hours of prison guard time and most likely would be only partially successful. As Securus predicted: “chaos”. Securus Reply Comments at 14.

The Free One-Minute Rule is a “financial sledgehammer” (*id.*) and an invitation to prison chaos. It would create a severe, if not total, regulatory taking and would imperil inmate safety. And there is no evidence that New Mexico needs this Free One-Minute Rule.

For this independent reason, the Commission should reconsider and strike 17.11.12.14(F) from the Final Rule.

CONCLUSION

For all these reasons, the Commission should grant the Motion to Reopen and strike part 17.11.12.14(F) from the Final IOSP Rules.

Dated: June 10, 2013

Respectfully submitted,

By: 
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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**PETITION TO COMMENCE RULEMAKING
PROCEEDING FOR INSTITUTIONAL
OPERATOR SERVICE PROVIDERS**

Case No. 10-00198-UT

**INMATE CALLING SOLUTIONS, LLC, AND
PUBLIC COMMUNICATIONS SERVICES, INC.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the SECURUS TECHNOLOGIES, INC. AND T-NETIX TELECOMMUNICATIONS SERVICES, INC. RESPONSE IN SUPPORT OF MOTION TO REOPEN AND MOTION FOR RECONSIDERATION OF FINAL ORDER AND FINAL RULE were sent via First Class Mail and electronic mail* to counsel for all parties of record on the 10th day of June, 2013:

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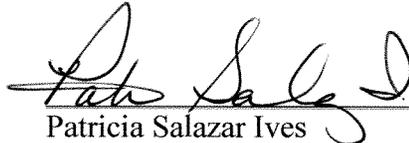
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