



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 11-16

January 22, 2016

Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in
Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls

OFFICIAL NOTICE AND CASE STATUS CONFERENCE

The Department of Telecommunications and Cable (“Department”), pursuant to G. L. c. 30A, § 11(5) and 220 C.M.R. § 1.10(2) takes official notice of the Federal Communications Commission’s (“FCC’s”) Order: *In re Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, *Second Report and Order and Third Further Notice of Proposed Rulemaking*, 30 FCC Rcd 12763, (rel. Nov. 5, 2015) (“ICS Rate Order”). In the Order, the FCC established new rate caps that apply to both interstate and intrastate Inmate Calling Services (“ICS”) and limited and capped ancillary services charges. *ICS Rate Order* at 12765. The adopted rates will have a direct effect on the ICS rates at issue in this proceeding. In particular, when the rates go into effect, ICS providers will be prohibited from assessing a per-call surcharge, as currently permitted in Massachusetts, and will be limited in the number of ancillary service charges they may assess with each permitted charge subject to a rate cap. *See id.* at 12811, 12845-853. However, the \$0.10 per minute rate cap for all intrastate ICS calls in Massachusetts is below each of the per minute rate caps established for debit, prepaid, and collect calls at jails and prisons and is unaffected by the FCC’s Order. *Id.* at 12866-867. Accordingly, the \$0.10 per minute rate cap remains unchanged.

While the Department is aware that parties to the FCC's rulemaking proceeding have appealed the Order,¹ to date the FCC's rate reforms are scheduled to go into effect on March 17, 2016, for ICS provided to prisons and June 20, 2016, for ICS provided to jails. *See Wireline Competition Bureau Announces the Comment Cycle and Effective Dates for the Inmate Calling Second Report and Order and Third FNPRM*, WC Docket No. 12-375, FCC Public Notice, DA 15-1484 (rel. Dec. 22, 2015). Therefore, the Department will hold a telephonic case status conference to discuss the effect the FCC's Order has on the scope of its proceeding. Parties should be prepared to discuss:

1. Whether the elimination of the per-call surcharge resolves all concerns regarding the just and reasonableness of the per-call surcharge rate and warrants the Department closing that portion of its Investigation. *See ICS Petition*, D.T.C. 11-16, *Hearing Officer Interlocutory Ruling* at 20 (Sept. 23, 2013).
2. Whether the FCC's establishment of specific taxes and ancillary service charges with price caps sufficiently resolved all concerns regarding the service and other fees contained in ICS providers' tariffs and warrants the Department closing that portion of its Investigation. *See id.* at 26-27.
3. Whether the FCC's Order resolves concerns about dropped calls and other service quality issues and warrants the Department closing all or part of that portion of its Investigation. *See id.* at 28-30.
4. Whether the FCC's Order resolves concerns about the adequacy of billing details and warrants the Department closing that portion of its Investigation. *See id.* at 30-31.
5. Whether any changes to the scope of the proceeding would moot any of the pending discovery requests.
6. Whether parties request the opportunity to brief on the effect the FCC's Order has on the scope of the proceeding prior to the Department making any determinations on whether to amend the scope of the proceeding.

¹ *See, e.g.,* Global Tel* Link v. FCC, *appeal docketed*, No. 15-1461 (D.C. Cir. Dec. 18, 2015); Securus Techs., Inc. v. FCC, *appeal docketed*, No. 15-1498 (D.C. Cir. Dec. 28, 2015). The FCC denied related petitions for stay pending judicial review on January 22, 2016. *In re Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, *Order Denying Stay Petitions*, DA 16-83 (rel. Jan. 22, 2016).

Parties are hereby directed to inform the Department on or before February 5, 2016, of three (3) dates, no later than March 7, 2016, on which they could participate in a one-day telephonic case status conference. Parties are encouraged to confer on potential dates prior to filing with the Department. Parties are directed to include in their filing a statement as to whether the Department should conduct a telephonic hearing on the pending motions to compel discovery responses on the same date as the case status conference.

By Ruling of the Hearing Officer,

A handwritten signature in blue ink that reads "Michael E. Scott". The signature is written in a cursive style with a horizontal line underneath it.

Michael Scott
Hearing Officer