

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

D.T.C. 11-16

Securus Technologies, LLC (“Securus” or “Company”), in accordance with the Department of Telecommunications and Cable’s (“DTC” or “Department”) Request For Comments And Notice Of Cancellation of Case Status Conference, dated February 28, 2024 (“Request”), hereby submits its initial comments responding to the four specific questions posed therein.¹

Securus provides Internet Protocol-enabled services to incarcerated people in various correctional facilities in Massachusetts, including those of the Massachusetts Department of Correction.² The Company actively participated in this proceeding until the issuance of the

² Securix refers to these services herein as incarcerated people’s calling services (“IPCS”) per recent developments in Federal law, except where the term “inmate calling services” (“ICS”) is used in quotations or where otherwise required. *See* Response of Global Tel * Link d/b/a ViaPath Technologies at 1, n.1.

Interlocutory Order in June of 2016.³ The technological and regulatory developments over the last nearly eight years strongly recommend that this proceeding be terminated. Most importantly, the primary issues originally raised by the Petitioners in 2009-2010 – the alleged unreasonable and unjust charges for ICS – have been remedied by the elimination of any such charges, for intrastate, interstate and international calling in Massachusetts. The use of IP-enabled technology to provide IPCS has made the networks more resilient and less subject to disruption.⁴ There have been no concerns about the removal of the few remaining payphones from public areas of correctional facilities to justify further investigation. Federal developments, including legislation, have addressed IPCS rates and ancillary matters on an ongoing basis and in a positive fashion for end-user consumers.

II. INITIAL COMMENTS ON DTC QUESTIONS

A. Whether Chapter 64 of the Acts of 2023 resolves concerns about ICS rates, ancillary service costs, and billing details such that the DTC should close that portion of its investigation (see *Interlocutory Order*, D.T.C. 11-16 at 27-28 (June 14, 2016))?

Section 87A of Chapter 127 of the Massachusetts General Laws – which became effective December 1, 2023 and does not include a sunset – requires that “[t]he department of correction and sheriffs shall provide any person committed to a state correctional facility, state prison or county correctional facility, including a jail or house of correction, with voice communication services, including phone calls, free of charge to the person initiating and the

³ *Interlocutory Order*, D.T.C. 11-16, June 14, 2016 (“*Interlocutory Order*”).

⁴ Mass. Gen. Laws, Chapter 25C, Section 6A(b) provides: “Except as set forth in subsections (c) to (f), inclusive, and notwithstanding any other general or special law to the contrary, no department, agency, commission or political subdivision of the commonwealth, shall enact, adopt or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order or other provision having the force or effect of law that regulates or has the effect of regulating, the entry, rates, terms or conditions of VoIP Service or IP enabled service.”

person receiving the communication....”⁵ The law further provides that “[t]he department of correction and sheriffs may supplement voice communications services with other communications services, including but not limited to, video and electronic communications services..., provided further, that other communications services shall be provided free of charge to the person initiating and the person receiving the communication.”⁶

Securus implemented the free-call regime in Massachusetts on its effective date.⁷ In accordance with the statute, all intrastate, interstate and international calls from the facilities Securus serves are without charge to end users. Ancillary service fees previously imposed in connection with such services have been eliminated. There are no charges to the incarcerated person or the called party for a video call. There are no charges for email service. There are no taxes or other fees (e.g., state regulatory fees, Federal USF fees) imposed on the calling or called parties in connection with their calls. Prepaid account holders were offered refunds of account balances.⁸ Incarcerated peoples’ debit accounts remain open, but the calling rates are set to “zero.”⁹ There are no billing statement issues because Securus does not send billing statements for free services to incarcerated people or the persons they call.

⁵ Mass. Gen. Laws, Chapter 127, Section 87A, Subsection (b).

⁶ *Id.*, Subsection (c). The statute does not cover tablets, where permitted by the facility, offered to incarcerated people, and media services.

⁷ See <https://securushelp.com/ma-department-of-corrections/>; see also <https://www.mass.gov/doc/no-cost-calling-faq/download>

⁸ Prepaid account holders who were receiving calls from incarcerated people outside the Commonwealth of Massachusetts were instructed to keep their accounts open.

⁹ Tablets and media services (e.g., access to music, movies, TV shows, books and audiobooks) are not covered by the statute. If the facility does not permit tablets for the incarcerated people, then balances in debit accounts were refunded. If tablets and media services are permitted in the facility, then these accounts remain open for the incarcerated person to make purchases. If permitted by the facility, Securus may charge a funding fee for depositing funds in an inmate debit account for media purchases.

In view of the statute – which again does not include a sunset provision – the Petitioners’ concerns that were the focus of this proceeding at its outset in 2009 and in 2016 have been resolved by the elimination of calling charges. The issues relating to per-call surcharge, per-minute usage rates, billing details, and ancillary service fees assessed in relation to the provision of intrastate IPCS in Massachusetts have been resolved. Incarcerated people and the parties receiving their calls, voice and video, at facilities served by Securus are “paying” the maximum minimum. There is no need to continue an investigation of the rate-related matters raised by the Petitioners.

B. Whether the DTC’s investigation into ICS service quality should be continued?

The Department’s investigation into ICS service quality – originally initiated over a decade ago – should not be continued. The record that ostensibly supported the Department’s decision is now stale. Few of the original Petitioners have active accounts with Securus, and Securus is not aware of any service quality complaints received from any of the Petitioners since those lodged back at that time.¹⁰ There is no informational foundation for the Department to continue its probe into service quality issues.

Further, with its current IP-enabled network Securus does not experience as many service quality issues that Securus customers may have experienced over a decade ago with individual premise platforms employing analog systems and technologies. The IP-enabled network is more resilient and less subject to disruption than the analog, premise-based system. So, the comments about dropped calls and line static raised over a decade ago are a decidedly less likely

¹⁰ As Securus noted at the time, it could not respond to end-user customer complaints that are not raised with its customer service representatives, as was the case with a number of the original Petitioners. *See* Response of Securus Technologies, Inc. , D.T.C. 11-16, January 20, 2012, at p. 34.

phenomena. Moreover, the Company has made a significant investment in phone and network equipment to handle the increased call volumes in light of the free-call regime.

Securus extensively addressed the original service-quality-related issues in its prior filings in this proceeding.¹¹ As noted then, a number of the matters raised by Petitioners were not service quality issues, but rather rate-related issues. Concerns about rates charged, additional set-up charges for dropped calls, or billing statement issues are eliminated in light of free calling (where customers are not charged and billed for calls, including video calls), are no longer relevant.

Securus has continued to invest in service quality and affords even more robust customer service capacity than it did at the time of the 2016 *Interlocutory Order*. Since 2022, Securus has received a total of 3 complaints from regulatory agencies relating to its services in Massachusetts, none of which related to the service quality issues raised in the 2016 *Interlocutory Order* or other service quality issues. Securus respectfully submits that there is no basis for the Department to restart an investigation of the Petitioners' long-ago service quality complaints. Indeed, Securus believes that the record on which the Department founded the conclusion to initiate the investigation the first place did not support such a decision.¹² Nor are there grounds to initiate a new examination of these issues on a *sua sponte* basis.

¹¹ See Response of Securus Technologies, Inc., D.T.C. 11-16, January 20, 2012, at pp. 31-37 and Exhibits 7 and 8; Response of Securus Technologies, Inc. To Public Comments, D.T.C. 11-16, October 24, 2012, at pp. 14-19; *see also* Securus Supplement To Response, D.T.C. 11-16, January 25, 2012; Securus Reply to Petitioners' Memorandum, April 12, 2012; Initial Brief of Securus Technologies, Inc., D.T.C. 11-16, April 25, 2016; Reply Brief of Securus Technologies, Inc., D.T.C. 11-16, May 23, 2016.

¹² As Securus noted in its January 2012 Response, none of the complainants presented their concerns to Securus for resolution either directly, as escalated complaints, or through more formal complaint channels. A majority of the thirty-two complainants provided limited and generalized information making it difficult or impossible to investigate. No customer telephone account or billed telephone number information was provided in any of the respective complaints. In the case of twenty-one of the complaints no specific detail was provided on dates or incidents related to the general compliance issues. In many cases, contacts with Securus' Customer Care did not relate to service complaints at all. Moreover, in connection with poor connection complaints, the percentages of calls on which poor connections were experienced by some of the petitioners were 5% or less out of hundreds of

C. Whether the removal of payphones in public areas at correctional institutions unduly burdens newly released individuals and/or visitors of inmates?

As the Department well knows, the prevalence of traditional payphones nationwide has been in steep decline. As noted by one expert witness for the Petitioners in this proceeding almost a decade ago, “[P]ublic payphones provided by the regulated telcos have rapidly gone the way of buggy whips and are almost non-existent. Most telcos have gotten completely out of the payphone business ... Cell phones have largely supplanted the need for payphones.”¹³ With respect to the number of payphones in correctional facilities, the Department itself has noted that decisions generally regarding payphones in correctional facilities are left to the facility administrators to decide.¹⁴ This logic applies equally to requirements for public payphones at facilities, which generally were part of the IPCS provider’s contract with the facility.

At the time of their removal Securus had a total of 36 payphones spread across the 21 facilities it served, none of which could be connected to Securus’s IP-enabled network. None of the facility administrators objected to the removal of this equipment, which generally was located outdoors and not inside a correctional facility building. Since such removal – which took place in September, October and November of 2022 – there have been no concerns raised by the facility administrators, released incarcerated individuals or their visitors regarding the absence of a public payphone on the premises. In fact, when public payphones were inoperable, Securus

calls. Response of Securus Technologies, Inc., D.T.C. 11-16, January 20, 2012, pp. 34-35 and n. 66.; *see also*, Response of Securus Technologies, Inc. To Public Comments, D.T.C. 11-16, October 24, 2012, at pp. 14-19.

¹³ Petitioner’s Appeal, Exhibit 2, Second Affidavit of Declaration of Douglas A. Dawson, October 13, 2013, at p. 2, para. 9.

¹⁴ *See* Hearing Officer Interlocutory Ruling, D.T.C. 11-16, September 23, 2013, at pp. 32-33. As a result, the Department dismissed the Petitioners request for an investigation into the number and quality of payphones in DOC facilities. *Id.*, at p. 33.

discovered that condition itself, and no one had notified or complained about the phones not being available. Until the Department's initial Case Status Conference notice, Securus was not aware of any burden that the absence of these 36 public payphones was imposing or might impose on anyone, particularly with the prevalence of cellphone service. Indeed, when Securus informed the Department that it was exiting the public payphone business in Massachusetts, there were no concerns or objections raised. Nor have any concerns been raised with Securus by the groups representing the Petitioners.

There were also practical reasons for the need to remove the public payphones. Based on the revenues generated, usage was marginal. There were increasingly limited options for payphone service vendors and providers of operator services for the phones. Repair parts become unavailable and to keep the phones in service the decommissioned phones had to be cannibalized, if possible. Securus's updated IP-enabled server equipment was not compatible with the older payphone equipment, which was not connected to the IP-enabled network.

Based on the foregoing and the dramatic changes in the public payphone market, Securus does not see a basis for the Department to add this new issue to the proceeding or to pursue the issue separately. This is particularly the case in light of the DTC's prior conclusion regarding who should decide about the number of payphones at correctional facilities.

D. Whether there are any other developments regarding inmate calling services in Massachusetts that the parties believe the DTC should be aware of since the DTC's 2016 *Interlocutory Order*?

In the intervening nearly eight years since the June 2016 Interlocutory Order, there have been several regulatory and service-related developments impacting IPCS in Massachusetts.

The Federal Communications Commission ("FCC") has continued the rulemaking proceeding that led to the Department's decision to set interim intrastate rates in the 2016

Interlocutory Order. In its most recent ruling, the agency set further limits on charges for interstate and international calls and ancillary fees.¹⁵

Congress enacted the Martha Wright-Reed Just and Reasonable Communications Act of 2022 (“Act”), which, among other things, gave the FCC clear jurisdiction to determine just and reasonable rates for intrastate calls.¹⁶ The Act instructs the FCC to promulgate regulations implementing its requirements by January 2025. The FCC has initiated an ancillary rulemaking to cover additional requirements raised by the law.¹⁷

Securus has undertaken several efforts that will affect IPCS or related services in Massachusetts. First, as previously noted the Company has made a significant investment in phone and network equipment to handle the increased call volumes in light of the free-call regime. Second, Securus has developed a phone application that can be used on a non-Securus tablet at the Massachusetts Department of Correction facilities where tablets are permitted. Third, Securus is developing integrated Internet Protocol relay communications for the hearing impaired on tablets and phones, including Internet Protocol Captioned Telephone Service, Internet Protocol Relay Service and Video Relay Service.

III. CONCLUSION

IPCS calls are now free in Massachusetts. Thus, rate issues initially raised by the Petitioners no longer exist. Non-rate-related service quality matters are addressed by improved IP-

¹⁵ *In the Matter of Rates for Interstate Inmate Calling Services*, Fourth Report and Order and Sixth Further Notice of Proposed Rulemaking, WC Docket 12-375, 37 FCC Rcd 11900 (2022).

¹⁶ Public Law 117-338, January 5, 2023.

¹⁷ *In the Matter of Incarcerated People’s Communications Services; Implementation of the Martha Wright-Reed Act*, Notice of Proposed Rulemaking And Order, 38 FCC Rcd 2669 (2023).

based technologies, which Securus for one continues to develop and plans to deploy. There has been no expression of burdens from facilities or released incarcerated individuals or their visitors from removal for the scant number of remaining public payphones at correctional facilities. The Department's conclusion that the number of payphones at correctional facilities should be left to the administrators should apply equally to the public payphone category. For all these reasons, Securus respectfully submits that this long-pending proceeding should be terminated and the docket closed.

Respectfully submitted,

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Dated: March 28, 2024

DECLARATION

I, Michael S. J. Lozich, am the Associate General Counsel, Regulatory Affairs for Securus Technologies, LLC. The attached “Initial Comments of Securus Technologies, LLC” (“Comments”), were prepared pursuant to my direction, supervision and control. I hereby declare under penalty of perjury that the representations made in the Comments concerning Securus and its operations, including its operations in the Commonwealth of Massachusetts, and the incarcerated people’s calling service in general, are true and correct to the best of my knowledge and belief.

/s/ Michael S. J. Lozich

Associate General Counsel, Regulatory
Securus Technologies, LLC

Dated: March 28, 2024

CERTIFICATE OF SERVICE

I, Paul C. Besozzi, hereby certify that on this 28th day of March 2024, I did serve, by Federal Express or first class mail, postage prepaid or by electronic mail a copy of the foregoing “Initial Comments of Securus Technologies, LLC” on the parties listed on the Service List below issued by the Department:

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