

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

some 15 years ago. Incarcerated people's calling services ("IPCS")³ are now free in Massachusetts, resolving any rate-related issues that Petitioners originally claimed justified initiation of the investigation. Petitioners' unverified equipment availability concerns and related complaints seek to raise new issues that do not warrant continuation of this proceeding. Indeed, the complaints relate to matters not even within the jurisdiction of the Department. Petitioners' belief in the imperative for public payphones is wholly unsupported by any specific concerns and cannot justify adding this issue to the current proceeding. Finally, Petitioners seemly ignore the significant legislative and regulatory developments that Securus and Global Tel*Link d/b/a ViaPath Technologies ("ViaPath") point out in their initial comments. In sum, Securus respectfully submits that Petitioners' counsel have not made any case for continuing, much less expanding, this investigation. It should promptly be terminated.

II. SPECIFIC REPLY 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))?

The initial comments make it clear that with recent legislative and regulatory reforms this question must be conclusively and unequivocally answered in the affirmative. IPCS calls, including video calls, are free to the calling and called party. The Petitioners' counsel somewhat grudgingly concede that pursuant to the referenced statute "end users are no longer paying ICS rates or ancillary service costs and receive no bills for telephone service."⁴ ViaPath totally

³ Securus 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.

⁴ Comments of Counsel for Petitioners, D.T.C. 11-16, March 27, 2024 ("Petitioners Comments"), at 1.

concur that the “legislative mandate in Chapter 64 eliminates any concern about IPCS rates and fees in Massachusetts because all voice communications services (and certain other communications services if offered) are to be provided free of charge.”⁵ Therefore, the investigation relating to “ICS rates, ancillary service costs, and billing details” should be closed.⁶

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

The Petitioners’ counsel now assert that the investigation of service quality issues should be continued because of general concerns about equipment availability to deal with increased call volumes due to free calls.⁷ They concede that those concerns are “not verified” and relate to new tablet equipment that Petitioners’ counsel are unaware whether they are or will be deployed.⁸ Further, in its Initial Comments Securus reported that it “has made a significant investment in phone and network equipment to handle the increased call volumes in light of the free call regime.”⁹ As a result, such unverified concerns cannot be a basis for continuing the service quality investigation, particularly on an issue never included in this proceeding.

Petitioners’ counsel also now seek to justify continuation of the investigation based on new complaints that counsel has received – complaints not made with Securus – relating to

⁵ Comments of Global Tel*Link d/b/a ViaPath Technologies, D.T.C. 11-16, March 28, 2024 (“ViaPath Comments”), at 5.

⁶ As also noted by both Securus and ViaPath, the Federal Communications Commission (“FCC”) is engaged in an ongoing rulemaking to establish just and reasonable rates for both interstate and intrastate calls, with a deadline to do so by January 2025. Securus Comments, at 7-8; *see* ViaPath Comments at 4. ViaPath concurs that “all concerns regarding IPCS rates, ancillary service charges, and billing details in Massachusetts have been addressed by either Chapter 64 or FCC rules.” ViaPath Comments, at 5.

⁷ Petitioners Comments, at 1.

⁸ *Id.* Deployment of tablets is a decision left to the discretion of the particular correctional facility administrator.

⁹ Securus Comments, at 5, 8.

certain new wi-fi wireless services being provided free to incarcerated people.¹⁰ With respect to equipment availability and upkeep, as Securus noted in its Initial Comments, the DTC already dismissed the Petitioners' request to investigate issues relating to numbers of payphones and maintenance thereof over a decade ago, ruling that these decisions should be left to correctional facility administrators.¹¹ Moreover, the DTC is not a regulator of wi-fi services or the quality thereof.

Further, the legislative reforms now make the state and counties the purchasers of IPCS. They have a direct and significant interest in quality issues related to the services they are paying for, and they are more than capable as public agencies to monitor the performance of their own contracts. The DTC should not intervene in the contracting decisions of other state and county agencies.¹² The amount of equipment and the timeline for deployment and the performance of services is negotiated with the applicable correctional agency; any investigation into these matters would necessarily need to now include those agencies and any decision would constitute second-guessing these solutions by the DTC. With respect to Massachusetts Department of Corrections ("MA DOC") facilities, the state agency best situated to resolve issues related to the performance of the MA DOC contract is the DOC. Issues related to the terms and conditions and performance of the MA DOC contract should be directed to that department.

¹⁰ As both Securus and ViaPath note, the original grounds for the service quality complaints have been mooted. Indeed, Petitioners' counsel make absolutely no mention of those complaints in their initial comments.

¹¹ Securus Comments, at 6; *see* ViaPath Comments, at 9, n. 35 ("Corrections authorities have broad discretion over the management of their correctional facilities...." and the "Department has no jurisdiction over correctional facility policies.").

¹² This should apply in the case of all elements of the contracting decisions within the purview of the correctional facilities under the free call regime.

Securus reiterates that 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.¹³ 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 phenomena.¹⁴

Securus extensively addressed the original service-quality-related issues in its prior filings in this proceeding.¹⁵ 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

¹³ 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 34.

¹⁴ ViaPath states that “the Department should close its review of ‘the telephone service quality provided by Respondents, including the frequency of dropped calls and line noise....’” ViaPath Comments, at 8. ViaPath adds that “this portion of the proceeding should be closed because Petitioners have not substantiated or supported any of their so-called service quality claims and have not complied with established procedures for addressing complaints as explained in ViaPath’s previous filings” ViaPath Comments, at 8, n. 30.

¹⁵ *See* Response of Securus Technologies, Inc., D.T.C. 11-16, January 20, 2012, at 31-37 and Exhibits 7 and 8; Response of Securus Technologies, Inc. To Public Comments, D.T.C. 11-16, October 24, 2012, at 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.

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.

By all reasonable standards,¹⁶ there are no issues regarding service quality that necessitate continuing the current (or opening a new) DTC investigation. IPCS providers have customer service organizations to respond to periodic issues, the DTC and Attorney General's Office maintain a pathway that appears to be working and effective for a consumer to escalate unresolved issues, and other government agencies are better situated to monitor contract performance. The service quality investigation should be closed.

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

Petitioners, without any demonstration or assertion of examples of undue burdens imposed on newly released individuals and/or visitors or families, believe that public payphones at prisons are an "imperative."¹⁷ They have received no complaints from their incarcerated clients. Apparently, they have also received no complaints from any of those who may have been newly released or visitors of the inmates. Petitioners' counsel do not cite any.

The fact is that there is not a single example in the record identifying any person who at any time at any location was burdened by the lack of access to a public payphone. It is completely unclear where this issue even came from, as even the Petitioners' counsel cannot

¹⁶ There does not appear to be a standard related to service quality issues to justify an ongoing, open-ended active investigation. While these matters will vary by industry sector, at a minimum one would think an investigation would be grounded on a documented pattern of an unreasonably high amount of service quality issues that the utility cannot or will not resolve on its own. There is no indication that has occurred here.

¹⁷ Petitioners Comments, at 1.

identify any complaints on the matter. With no record reflecting any issue, there is simply no basis for now adding this issue to the investigation or requiring reinstallation of public payphones.

Moreover, to the extent that there is a burden relating to public payphones, Securus respectfully submits that IPCS providers are not the correct party to the solution. The business of IPCS providers focuses on communications originating from within a correctional facility; public payphones are for communications external to those facilities. While Securus provided public payphones in the past, it was solely in the context of a provider of services to correctional facilities *that required public payphones as a contract criterion*. Public payphones were never a core function of Securus' business and 18 months ago the Company stopped providing these services everywhere in the US. Securus is not in any position to resume providing these services and has no plan for doing so. The fact that the Department, any correctional agency, or released individuals or visitors to such individuals questioned or objected to the Company's decision ending these services is a strong indication that these services are no longer needed.¹⁸

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*?

Securus and ViaPath identified numerous examples of ongoing proceedings and legislative changes that are relevant to providing IPCS in Massachusetts.¹⁹ Compared to 2016, almost the entire landscape of regulatory matters affecting the delivery of IPCS has changed in

¹⁸ Securus provided other salient reasons in its Comments. Securus Comments, at 7. ViaPath concurs that, to its knowledge, the removal of payphones in public areas at correctional institutions is not unduly burdensome for newly released individuals and/or their visitors." ViaPath Comments, at 11.

¹⁹ ViaPath commented that "these significant changes in federal and state law eliminate the need for the Department to move forward with this proceeding." ViaPath Comments, at 4-5; *see also id.*, at 13.

material ways. The current FCC proceeding is expected to produce new caps on rates and ancillary service charge reforms, address preemption related to intrastate services, and make other rule changes and reforms. Every issue raised in 2009 is now overtaken by events.

The complaints of 2009-2010 have either been resolved or not substantiated in the record. This docket should be closed; there are no new reasons to extend it further. If future circumstances indicate issues suitable for DTC investigation or intervention, the Department has sufficient authority to open a new docket to focus on those specific matters. Keeping the investigation docket alive in abeyance while acknowledging that all issues have been resolved is a solution in search of a non-existent problem.

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-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. For all the foregoing reasons, Securus respectfully submits that this long-pending proceeding should be terminated and the docket closed.²⁰

²⁰ As the Department has noted, it has “limited resources and must be judicious in its exercise of investigatory authority.” Hearing Officer Interlocutory Ruling, D.T.C. 11-16, September 23, 2013, at 12.

Respectfully submitted,

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DECLARATION

I, Michael S. J. Lozich, am the Associate General Counsel, Regulatory Affairs for Securus Technologies, LLC. The attached “Reply 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 services 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: April 29, 2024

CERTIFICATE OF SERVICE

I, Paul C. Besozzi, hereby certify that on this 29th day of April 2024, I did serve, by Federal Express or first class mail, postage prepaid or by electronic mail a copy of the foregoing “Reply Comments of Securus Technologies, LLC” on the parties listed on the Service List below issued by the Department:

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