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21-12013

Public Utilities Commission of Nevada  
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Submitted: 4/19/2022 2:00:31 PM

Reference: 8b928481-98fa-4b73-b5e2-d2bac3e35d9e

Reference:

Filed For: Prison Policy Initiative

In accordance with NRS Chapter 719,  
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by: /s Stephen Raher

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Prison Policy Initiative

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Rulemaking to Amend, Adopt, and/or Repeal  
Regulations in Accordance with Senate Bill  
387 (2021)

Docket No. 21-12013

COMMENTS OF PRISON POLICY INITIATIVE  
REGARDING DRAFT REGULATION

Pursuant to the Procedural Order entered in the above-captioned proceeding on March 24, 2022 (the “Order”), Prison Policy Initiative (“PPI”) respectfully submits the following comments regarding the draft regulation appended to the Order. PPI generally supports the draft regulation proposed by the Hearing Officer. As explained below, we suggest two modifications and seek clarification on one issue.

Section 6 would benefit from more specific jurisdictional language. Although the parties to this proceeding appear to be in agreement regarding the scope of the Commission’s jurisdiction, readers of any final rule may benefit from greater precision regarding the nature of the Commission’s power. Specifically, PPI believes that the following modifications would appropriately reflect the extent of the Commission’s jurisdiction (language added to the draft regulation is indicated by underlining, deletions are indicated by ~~striketrough~~):

*Section 6. Intrastate rates ~~Rates~~ for incarcerated calling service provided by a competitive supplier shall be subject to the following restrictions:*

- 1. The maximum rate ~~shall be consistent with~~ may not exceed the applicable maximum allowable per-minute rate for interstate inmate calling services as set forth in 47 C.F.R. Part 64, subpart FF;*

\* \* \*

- 6. No provider may charge a Nevada customer more than one type of funding fee for any single payment transaction; and*
- 7. No flat-rate calling*

With these changes, we believe that all readers would be on notice regarding the intrastate scope of these rules.

The draft regulation does not provide a mechanism for disclosure of calling rates to incarcerated customers. Section 11 of Senate Bill 387 modifies the generally applicable rule regarding competitive telecommunication suppliers' rate-disclosure obligations<sup>1</sup> by empowering the Commission to craft disclosure rules specifically tailored to the unique needs of consumers of inmate calling services ("ICS"). In its opening comments, Securus Technologies, LLC proposed a rule that largely mirrors the default statutory disclosure rules that apply to non-ICS competitive suppliers.<sup>2</sup> PPI responded by suggesting public-posting rules designed to accommodate both incarcerated callers' lack of internet access and correctional facilities' security needs.<sup>3</sup> The draft regulation contains no rate-disclosure rules.

We reiterate our earlier comments that incarcerated callers often pay for their own calls yet lack internet access and generally cannot afford the \$2 fee that is charged by most carriers for rendering of paper billing statements. It is axiomatic that consumers of any service (and particularly a regulated utility service) must receive advance notice of prices. PPI welcomes any disclosure system that addresses the limitations faced by incarcerated consumers. Although we are open to many different type of disclosure regimes, the only proposal in the record thus far that acknowledges incarcerated callers' lack of internet access is the draft rule set forth in our previous reply comments. In light of the Order's requirement that "[a]ny proposed change to the draft regulation should be supported with draft language," we accordingly reiterate our earlier proposal and encourage the Commission to adopt a disclosure rule substantially similar to the following:

1. All inmate calling service suppliers must disclose their rates, fees, and charges as follows:
  - (a) For intrastate calls the supplier shall comply with all rate disclosure requirements contained in 47 C.F.R. §§ 64.710 and 64.6110, including any amendments thereto.
  - (b) Rates, fees, and charges applied pursuant to this rule shall be made available to the party paying for a transaction prior to the commencement of the transaction and

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<sup>1</sup> See Nev. Rev. Stat. § 704.68875.

<sup>2</sup> Opening Cmts of Securus at 12 (Feb. 23, 2022).

<sup>3</sup> Reply Cmts of PPI at 5 (Mar. 9, 2022).

without the consumer having to dial a separate telephone number or access a separate website. Such information shall include an equally prominent disclosure of alternative funding or refunding mechanisms that are free of ancillary service charges.

2. The information required by this section must be delivered to the correctional institution by the inmate calling service supplier for posting on or near the institutional phone, in plain view of incarcerated persons, provided that such signage is allowed by the correctional institution. The posted signage must clearly and simply disclose all applicable rates, fees and charges for inmate calling services set forth in this rule and provide the relevant contact information for the supplier for purposes of submitting consumer complaints, as well as the mailing address of the Public Utility Commission's Division of Consumer Complaint Resolution for unresolved consumer complaints.

PPI supports the draft rules regarding annual review and variance petitions, provided that interested parties may participate. Sections 7 and 8 of the draft regulation create procedures for annual review of the Commission's ICS rules and review of carrier petitions for variance, respectively. PPI has no objection to these provisions, provided that interested parties are given an opportunity to participate, including but not limited to intervention pursuant to Nev. Admin. Code § 703.578 through 703.600.

PPI commends the Commission and the Hearing Officer for their work in this proceeding. We believe that the draft regulation set forth in the Order is strong. We offer the modifications proposed above in an attempt to make the forthcoming rule even more effective.

Respectfully submitted this 19th day of April 2022.

#### **PRISON POLICY INITIATIVE**

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## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by electronic service to:

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Dated at Portland, Oregon, this 19th day of April, 2022

/s Stephen Raher  
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