

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE

Docket No. R-32777, In Re: Rulemaking to Establish Rules and Regulations Specific to the Regulation of Prison Telephone Communication Systems.

(Decided at the Commission's Business and Executive Session held March 22, 2016.)
(Preempts and Supersedes Order U-21322, Order R-31891 and Order R-31891-A)

I. PURPOSE

Pursuant to directive, the Louisiana Public Service Commission ("LPSC" or "Commission") initiated this rulemaking with the goal of adopting rules and regulations specific to the regulation of intrastate prison telephone communication systems. Previous Commission Orders addressing prison telephone communications systems use the terminology "inmate phone service", "payphone service", "payphone services provider", "operator service" and "operator service provider", to describe those telecommunications services provided to persons incarcerated in public or privately operated prisons and jails in Louisiana. The Federal Communications Commission ("FCC") identifies these services as "Inmate Calling Services." For consistency, the Commission will hereafter refer to the intrastate telecommunications services provided to those incarcerated in prisons, jails, and other correctional facilities in Louisiana as "Inmate Calling Services" ("ICS"), and a provider of such services as an "Inmate Calling Service Provider" ("ICSP").

The requirements and regulations set forth herein, and as contained in Staff's Final Recommendation Draft Order, are intended to apply prospectively to all persons and entities engaged in the provision of intrastate ICS.. Further, this Order and regulations adopted hereto are intended to preempt and supersede all prior Commission Orders, rules and regulations pertaining specifically to Inmate Calling Services and to all Inmate Calling Service Providers.¹

¹ The most recent regulations for operator and payphone services were adopted by the August 19, 1998 General Order (Docket No. U-21322, *In re: Reconsideration of Regulations and Guidelines for Customer Owned Coin Operated Telephone Service Providers/Alternate Operator Service Providers in Light of Problems that have developed in the Industry and Applicability of the above Regulations and Guidelines to all Public Payphone Providers*). The most recent revision to the Commission's authorized rate caps are contained in the General Order dated January 28, 2013 in Docket R-31891 (*In Re: Review and Update of the Regulations and Guidelines of the Louisiana Public Service Commission Applicable to Customer Owned Coin Operated Telephone Service Providers and Alternate Operator Service Providers*) and subsequent revision dated May 31, 2013 Order R-31891-A.

II. PROCEDURAL HISTORY

The Commission opened the above-captioned Docket No. R-32777 via notice publication in Official Bulletin No. 1035 dated April 26, 2013, with a 25 day intervention period. East Ascension Telephone Company D/B/A EATEL and Lafourche Telephone Company, LLC (collectively "EATEL"); Securus Technologies, Inc.; City Tele-Coin Company, Inc.; and, the Louisiana Sheriff's Association timely intervened in this matter. EATEL subsequently withdrew its intervention. The Staff issued its Proposed Recommendation on July 14, 2015. Subsequently, in addition to the timely interventions previously listed, interventions were filed by American Phone Systems, LLC; CenturyLink Public Communications, Inc.; Correct Solutions, LLC; Infinity Networks, Inc.; and Network Communications International Corp. All parties filed comments in response to the Staff's Proposed Recommendation on or prior to September 11, 2015.

Staff reviewed the extensive comments filed by the parties, Staff also analyzed the FCC *Second Report and Order and Third Further Notice of Proposed Rulemaking* ("FCC 2015 Order") addressing ICS rates and reforms, as well the Alabama Public Service Commission's "Revised Inmate Phone Service Rules" in Docket No. 15957, which resulted in orders in July and December of 2014. After a consideration of the above, Staff issued a Final Recommendation on January 15, 2016.

III. JURISDICTION

Article IV, § 21 of the Louisiana Constitution of 1974 provides the Commission with the following authority:

The commission shall have all power and authority to regulate common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

Consistent with the above, the Commission exercises Constitutionally-granted, plenary jurisdiction over public utilities and common carriers. Included within the Constitutional grant is jurisdiction over intrastate ICS and the providers of such services. The breadth of the Commission's authority has been consistently affirmed by the Louisiana Supreme Court on numerous occasions. *See, e.g., Cajun Electric Power Cooperative, Inc. v. LPSC*, 544 So.2d 362 (La. 1989); *South Central Bell Telephone Co. v. LPSC*, 412 So.2d 1069, 1070 (La. 1982); *Central Louisiana Electric Co. v. LPSC*, 373 So.2d 123, 128 (La. 1979); *Louisiana Consumers'*

League Inc. v. LPSC, 351 So.2d 128, 131 (La. 1977). Since at least 1989,² the Commission has adopted, on a continuous basis, regulations applicable to ICSPs through a series of Commission Orders. While the most recent pronouncements regarding rates were adopted in January 2013 with the passage of Order R-31891, and in May 2013 with the passage of Order R-31891-A, the actual substantive regulations have not been modified since the adoption of the August 19, 1998 General Order.

IV. STAFF RECOMMENDATIONS

A number of drastic changes have taken place in the telecommunications industry, and, more specifically in the operator and payphone service provider industry in which ICSPs operate. Therefore, the Staff proposed promulgating these regulations to modernize the existing regulations as they apply to ICSPs to ensure that services are provided at just, reasonable and non-discriminatory rates. Thus, these regulations are intended to specifically preempt and supersede all prior Commission Orders, rules and regulations pertaining specifically to Inmate Calling Services and to all Inmate Calling Service Providers.

Staff's Final Recommendation addresses the following issues and concerns, and proposes ICSP Regulations to address those concerns.

1. The Draft Order applies prospectively to all persons and entities engaged in the provision of intrastate ICS within Louisiana and preempts and supersedes all prior Commission Orders, rules and regulations pertaining specifically to inmate calling services and inmate calling service providers.
2. The staff recommendation proposes to eliminate the requirement that ICS providers file and maintain tariffs with the Commission, proposes a transition period for ICS provider compliance with the ICS caps and regulations, and provides for both rate and ancillary fee maximum charges.
3. The recommendation provides that tariff requirements applicable to ICS providers be eliminated, and proposes that ICSPs be allowed to provide services pursuant to individually negotiated contracts. The rates and charges in such contracts would be subject to all rules that the Commission adopts in this proceeding.
4. The staff recommendation prohibits "single pay" methods of bill payment, and authorizes only those ancillary service charges adopted by the FCC 2015 Order.
5. All ICSPs must be certified by the Commission prior to providing intrastate inmate calling services.
6. ICSPs are permitted to provide ICS pursuant to contracts entered into with correctional facilities. The rates of such new contracts may not exceed the Rate Caps for ICS or Ancillary Charges set forth in Attachments A and B without the prior approval of the Commission.

² See LPSC Order No. U-17957 (March 7, 1989) (*In re: Investigation of operating practices of alternate operator services providers to include rates and charges*), which established the rules and regulations for ICSP operating in Louisiana.

7. The rate caps set forth in Attachments A and B shall not apply to existing contracts, but will apply to any new contracts or renewals or extensions of existing contracts executed after the effective date of this Order. However, the rate caps set forth in Attachments A and B shall apply to all existing and new contracts, and all renewals or extensions of existing contracts, twelve (12) months after the effective date of this Order.
8. An ICS provider may petition the Commission to include additional charges and surcharges not addressed in Attachment B. No additional charges or surcharges would be allowed to be charged or collected without prior Commission approval.
9. Upon the effective date of the Order, ICS providers are prohibited from entering into new contracts (including contract renewals or extensions of existing contracts, or negotiating amendments to existing contracts that would require or permit ICS providers to charge rates in excess of the rate caps set forth in Attachments A and B, impose ancillary service charges that are prohibited by the Order or charge ancillary service charges that exceed the caps adopted in the Order.)
10. An ICSP may request Commission approval of rate and/or ancillary charge increases and/or additional ancillary charges by submitting a formal request to the Commission.
11. The Commission shall notice, hear, and consider complaints filed by customers of ICSPs pursuant to the Commission's Rules of Practice and Procedure.
12. No ICSP shall willfully violate any provision of this Order applicable to regulated ICSPs; nor shall any ICSP fail to perform any duty imposed by this Order. Upon being found guilty of a willful violation of this Order, an ICSP may be fined up to \$10,000 per violation and/or have its certificate of operating authority revoked.

V. COMMISSION ACTION

Staff's Final Recommendation, containing the Proposed ICSP Regulations, was considered by the Commission at its March 22, 2016 Business and Executive Session. Commissioner Skrmetta made a motion, seconded by Vice Chairman Angelle, to accept Staff's recommendations. Commissioner Boissiere made a substitute motion, seconded by Commissioner Campbell, to postpone and suspend the vote until the FCC can make a final ruling on the matter. The motion failed 2-3. Commissioner Skrmetta's original motion was taken up, seconded by Vice Chairman Angelle, with Chairman Holloway concurring and Commissioner Campbell and Commissioner Boissiere opposing, the Commission voted to accept Staff's Final Recommendation as filed on January 15, 2016.

IT IS THEREFORE ORDERED:

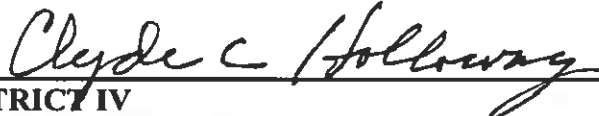
1. Staff's Final Recommendation and Staff's Proposed ICSP Regulations attached hereto as Appendix A are hereby adopted.
2. This General Order is effective immediately.

IT IS THEREFORE ORDERED:

1. Staff's Final Recommendation and Staff's Proposed ICSP Regulations attached hereto as Appendix A are hereby adopted.
2. This General Order is effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

April 20, 2016



**DISTRICT IV
CHAIRMAN CLYDE C. HOLLOWAY**

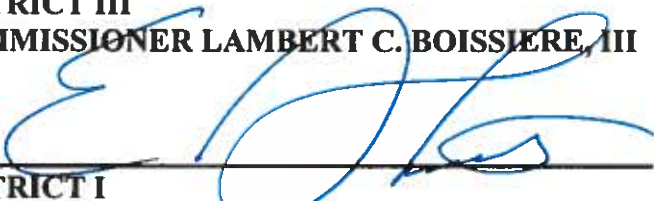
**DISTRICT II
VICE CHAIRMAN SCOTT A. ANGELLE**

**OPPOSED
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL**

**OPPOSED
DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III**



**EVE KAHAO GONZALEZ
SECRETARY**



**DISTRICT I
COMMISSIONER ERIC F. SKRMETTA**