

Assistant Ombudsman Angela McBride's Comments
Governor's Justice Reform Work Group
October 15, 2015

What the FCC Rule Will Address and the Impact on Iowa

- FCC preliminary information published about the phone rates
 - Good news for offenders and families.
 - Clarifies some issues that have been pending for a while.
 - **No flat rates and low per minute rate cap for ALL calls.**
 - **Discouraging** commissions but no ban on commissions.
 - Limits the ancillary charges on how to set up account and add money but bans all others.
 - Rates get progressively higher for small jails
 - \$.11 per minute cap for federal and state.
 - Translation: \$1.65/15 minute call or \$2.20/20 minute call
 - DOC rate would be reduced by \$.70 or reduced by \$.035 per minute (.0145 to .11 if figured per minute)
 - \$.14 per minute cap for jail with population of 1000 or more offenders.
 - \$2.10 /15 minute call and \$2.80 /20 minute call
 - \$.16 per minute cap for 350-999.
 - \$2.40/15 min and \$3.20/20 min
 - Polk county just under 1000 offenders due to not using wing
 - Polk—small change for local calls, **huge reduction for intrastate calls (this is great news)**, small reduction for interstate calls, down from .21 or .25 to .16 per minute
 - \$.22 per minute cap for 349 and under.
 - \$3.30/15 and \$4.40/20

- FCC will vote next week.

- Some aspects could be appealed, delaying implementation.

- Effective date unknown – There was mention of a 2 year transition period for collect calls but potentially effective within 90 days after effective date of order (end of January?).

- Most contracts will likely need to be renegotiated.

What the FCC Rule Does Not Address

- No incentive to stop other kinds of bundling
 - except mention of 3rd proposed ruling on video visitation and other communication services
 - Video chats—Jail v. Home (convenience fee v. what we have come to expect)
 - Unanticipated new technology--Other states consider iPad for inmates—able to transact all their business, download videos and books, e-mail, from this device.

- Even with FCC new rates – there will likely still be commissions for phones (and other items) due to competition for those contracts.
- Currently Iowa law establishes a separate fund for the telephone rebate used for the benefit of inmate. That law does not apply to county jails
- State Accountability -- Iowa law states DOC funds must be used for the benefit of offenders. Administrative rule provides for the BOC to approve those expenditures. This occurs at an open meeting. Also the auditor has reviewed in past.

Ombudsman's Comments and Considerations

- ✓ Rates must be just, fair and reasonable.
- ✓ Evidence suggests that pro-social contact with friends and family helps reduce rates of return.
- ✓ Below are a few options to help ensure 1) we do not further penalize offenders and families when they try and keep in touch and 2) there are mechanisms in place to monitor it.

A -- **Minimum Improvement Necessary**

The Ombudsman believes counties should have consistent and comparable practices with IDOC, this would include:

- 1) Keeping telephone rebates or commissions in a separate fund
- 2) Telephone funds are used for the direct benefit of the offender
- 3) Monitoring and Accountability – a government body approves telephone fund expenditures

B -- Consider amending Iowa law to clarify what is meant that the phone fund be **“used for the benefit of inmates.”** This provision is **rather broad and could conceivably cover many aspects of operating a prison.** Should the fund be restricted to cover the actual costs of having the phone system? If not, the Ombudsman believes the law should clarify what expenditures can be paid for from the fund and that any defined expenditure should be of direct benefit to inmates.

C -- Consider **capping the commissions** at per minute rate. Can be seen as strong middle ground if coupled with A and B above.

D -- Consider incorporating language to require prisons and jails to **negotiate the best rate for the offender**

E – Consider **banning commissions.** This is occurring in many states. The Ombudsman supports charging only actual costs but we recognize this may not be practical.

Additional Polk County Detail

- After the last meeting, I updated the Ombudsman and she wanted me to ask Polk County for more information.
 - I have the rate chart
 - I have the list of programs
 - I have the Securus contract with Polk County
 - I have asked but I do not know the cost of those programs—many appear to be run by volunteers
 - Polk County told me there is no dollar for dollar accounting of phone money into Public Safety budget.
 - Securus was smart. They have provision in contract to renegotiate the contract for rate changes such as this, so Polk is looking at .16 per minute for all calls. It is yet to be seen whether they will keep the commission structure.

15 Minute Local Calls

See rate chart provided.

Local rates are **\$2.03 prepaid - \$2.65 collect** = .13- .17 per minute

The **local** call rates are not unreasonable (even though they are a flat rate) after you consider the security features and the recent announcement by the FCC which will change the rule to allow a facility of under 1000 offenders to charge .16 per minute (which is **\$2.40 for all calls**). Polk County reported they are under 1000 offenders.

15 Minute Intrastate Calls (calls that stay in Iowa)

However, it is noteworthy to look at the intraLATA and interLATA intrastate calls on the rate chart.

Pre-paid and debit calls are usually the cheapest calls and collect calls are usually much more expensive.

Prepaid	\$9.90 for a 15 minute call (see rate chart No. 16 and 17)
Debit	\$6.25 to \$10.30 15 minute call (see No. 21, 22, 23, 24)
AdvanceCo	\$6.90 to \$11.40 15 minute call (see No. 9, 10, 11, 12)
Collect	\$7.65 to \$11.40 (see No. 2, 3, 4, 5)

The point being, the pre-paid intrastate calling rates are the **same or only slightly cheaper** than a **collect** call (see #2, 3, 4, 5). This is exactly why the FCC is cracking down on the inmate calling system and why Iowa should evaluate and provide guidance on the rates charged by Iowa jails. The interLATA intrastate rates (see No. 5,12, 17, 24), whether they be collect or prepaid, seem unreasonably high.

FACT SHEET: Ensuring Just, Reasonable, and Fair Rates for Inmate Calling Services

Today, Chairman Wheeler and Commissioner Clyburn ask their fellow commissioners to consider an item that will ensure that the rates for inmate calling services (ICS) are just, reasonable, and fair for all types of calls: local, long distance, and international. Under the leadership of Commissioner Clyburn as acting Chair, in 2013 the FCC capped interstate calling rates, reining in high rates for long-distance calls across state lines.

Now, in partnership with Commissioner Clyburn, Chairman Wheeler is proposing to cap rates for ALL ICS calls – local, long-distance, and international – while limiting or banning excessive fees on calls. In combination, these reforms ensure that rates will be just, reasonable and fair with robust security features and take into account the unique nature of serving jails versus prisons.

Studies have shown that contact between inmates and their families and loved ones during incarceration reduces recidivism. These reforms will help inmates and their families stay in touch by making calling more affordable, and benefit society as a whole by helping inmates transition more smoothly back into society upon their release. The Commission will vote on the item at the Commission's October 22 Open Meeting.

Key Reforms

- **Establishes caps on all inmate calling rates**
 - These new caps reduce the average rates for the vast majority of inmate calls substantially, from \$2.96 to no more than \$1.65 for a 15-minute intrastate call, and from \$3.15 to no more than \$1.65 for a 15-minute interstate call.
 - Tiered rate structure accommodates the higher relative costs faced by jails (especially small jails) as opposed to state and federal prisons. The rate caps are as follows:
 - 11 cents/minute for debit/prepaid calls, in state or federal prisons.
 - 14 cents/minute for debit/prepaid calls in jails with 1,000 or more inmates.
 - 16 cents /minute for debit/prepaid calls in jails with 350-999 inmates.
 - 22 cents /minute for debit/prepaid calls in jails of up to 349 inmates.
 - Rates for collect calls are slightly higher in the first year and will be phased down to these caps after a two-year transition period.
 - Approximately 71% of inmates reside in state or federal prisons.
 - Approximately 85% of inmates reside in institutions with populations exceeding 1,000.
 - With the exception of the rate for small jails, these rates are substantially lower than the current 21 cents/minute interim cap on interstate rates.
 - The rate caps permit recovery for robust security measures, as reflected in costs that ICS providers filed with the Commission.
- **Caps or bans burdensome and needless ancillary service charges, which can add nearly 40% to the cost of a single call**
 - Limit and cap ancillary service charges to the following list of permitted charges:
 - Automated payment by phone or website: \$3.
 - Payment through a live agent: \$5.95.
 - Paper bill fee: \$2.
 - Third-party financial transaction fees, such as fees charged by MoneyGram or Western Union, may be passed through with no mark-up.

- All other ancillary service charges are prohibited.
- Mandatory taxes and regulatory fees may be passed through with no mark-up.
- **Discourages “site commission” payments by providers to institutions**
 - Defines the term “site commission” broadly as payments in money or services from inmate calling service providers to correctional institutions or government agencies.
 - Excludes the cost of site commissions in establishing the rate caps and strongly discourages the use of site commissions.
 - Continues to monitor the effect of site commissions on rates but does not restrict ICS providers’ sharing or profits if such payments fit within the rate caps.
- **Bans flat-rate calling**
 - Disallows providers from imposing so-called “flat-rate calling,” that is, a flat rate for a call up to 15 minutes regardless of actual call duration.
 - Clarifies that this practice violates statutory mandates requiring that rates be just, reasonable, and fair, and penalizes callers who stay on the phone less than 15 minutes.
- **Ensures access for people with disabilities**
 - Requires providers to offer discounted rates for telephone relay service (TRS) calls for inmates with communications disabilities.
 - Reminds correctional institutions of their obligation to make TRS available to people with communications disabilities.
 - Encourages jails and prisons to allow commonly used forms of TRS and requires them to report service quality issues.
- **Transition Period**
 - Requires rate caps, site commission and ancillary service charge reforms to go into effect 90 days from the effective date of the Order.
- **Ongoing Review and Oversight**
 - Commits to reevaluate impact of reforms and rates in two years to determine if adjustments need to be made.
 - Requires annual reporting and certification by ICS providers, to ensure compliance and enable monitoring of developments
- **Third Further Notice of Proposed Rulemaking:**
 - Seeks further comment on promoting competition in inmate calling services without the need for additional regulation
 - Video visitation and other advanced inmate communications services
 - Recurring Mandatory Data Collection

Securus Technologies, Inc.
IA_Polk County Rate Chart

			Polk County - 06418		
No.	Destination Class	Customer Type	Per call	Per Minute	
1	Local	Collect	2.65	0.00	
2	IntraLATA Intrastate (Day)	Collect	3.90	0.25	7.65
3	IntraLATA Intrastate (Evening)	Collect	3.90	0.20	6.90
4	IntraLATA Intrastate (Night/Weekend)	Collect	3.90	0.20	6.90
5	InterLATA Intrastate	Collect	3.90	0.50	11.40
6	InterLATA Interstate (1)	Collect	0.00	0.25	
7	IntraLATA Interstate (1)	Collect	0.00	0.25	
8	Local	AdvanceConnect	2.65	0.00	
9	IntraLATA Intrastate (Day)	AdvanceConnect	3.90	0.25	7.65
10	IntraLATA Intrastate (Evening)	AdvanceConnect	3.90	0.20	6.90
11	IntraLATA Intrastate (Night/Weekend)	AdvanceConnect	3.90	0.20	6.90
12	InterLATA Intrastate	AdvanceConnect	3.90	0.50	11.40
13	InterLATA Interstate (1)	AdvanceConnect	0.00	0.21	
14	IntraLATA Interstate (1)	AdvanceConnect	0.00	0.21	
15	Local	Prepaid Cards	2.03	0.00	
16	IntraLATA Intrastate	Prepaid Cards	3.15	0.45	9.90
17	InterLATA Intrastate	Prepaid Cards	3.15	0.45	9.90
18	InterLATA Interstate (1)	Prepaid Cards	0.00	0.21	
19	International	Prepaid Cards	1.55	0.75	
20	Local	Debit	2.43	0.00	
21	IntraLATA Intrastate (Day)	Debit	3.55	0.225	6.925
22	IntraLATA Intrastate (Evening)	Debit	3.55	0.18	6.25
23	IntraLATA Intrastate (Night/Weekend)	Debit	3.55	0.18	6.25
24	InterLATA Intrastate	Debit	3.55	0.45	10.30
25	InterLATA Interstate (1)	Debit	0.00	0.21	
26	IntraLATA Interstate (1)	Debit	0.00	0.21	
27	International	Debit	1.55	0.75	

