



September 27, 2021
By ECFS

Marlene Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

RE: National Association of State Utility Consumer Advocates Comments
WC Docket No. WC 12-375.

Dear Ms. Dortch,

The National Association of State Utility Consumer Advocates (NASUCA)¹ submits these comments in response to the Fifth Further Notice of Proposed Rulemaking included as a part of the Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking released May 24, 2021 (Order). Our comments are responsive to the request for comments on the Commission’s current rules for permitted ancillary charges, and whether the Commission should revisit the rules and the level of charges. See Order ¶ 325. Specifically, we comment on the rules for charges for single call and related services. We appreciate the accompanying statement of Acting Chairwoman Jessica Rosenworcel that the Commission “will investigate whether the current ancillary service charges for a single call or for using a credit card are just and reasonable, as required by the Communications Act.”

For “Single-Call and Related Services,” rule 64.2020(b)(2), as amended in the Order, authorizes an ancillary charge of \$6.95 per transaction (and hence per call), in addition to the per minute rate. NASUCA’s concern, as noted in our *ex parte* letter dated April 2, 2021, is the ancillary charge that an inmate calling service (“ICS”) provider is permitted to assess when a

¹ NASUCA is a voluntary association of 59 consumer advocates. NASUCA members represent the interests of utility consumers in 44 states, the District of Columbia, Puerto Rico, Barbados and Jamaica. NASUCA is incorporated in Florida as a non-profit corporation. NASUCA’s full members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General’s office). NASUCA’s associate and affiliate members also represent the interests of utility consumers but are not created by state law or do not have statewide authority. Some NASUCA member offices advocate in states whose respective state commissions do not have jurisdiction over certain telecommunications issues.

payment (debit or credit) card is used to pay for the single call without the use of a third-party financial service like Western Union or MoneyGram. As we observed in our *ex parte* letter, our understanding was that the regulation prior to its amendment placed a \$3.00 cap on the ancillary charge in this circumstance and that the \$3.00 had been determined by the Commission to be more than sufficient to cover the ICS provider's costs, including any payment card processing fee. We do not understand the justification for an ancillary charge in this circumstance above \$3.00 and as high as \$6.95. The evidence cited in paragraph 209 of the Order, on which the Commission relied in adopting the \$6.95 figure, appears to be based on a situation in which use is made of a third-party financial service like Western Union or MoneyGram.

NASUCA also believes that investigation is merited as to whether an ancillary charge as high as \$3.00 is justified for a single call using a payment card and no third-party financial service like Western Union or MoneyGram. An ancillary automated payment fee charge of \$3.00 for a \$50.00 credit card deposit to an ICS account may be appropriate. But an ancillary automated payment fee charge of \$3.00 for each and every single credit card call may not be. At \$.21 per minute, the maximum per minute charge for a 15-minute call is \$3.15. Thus, for \$53.00 (\$50.00 deposit plus \$3.00 ancillary charge), the incarcerated person can place fifteen 15-minute calls, and \$2.75 will still be left in the account. By contrast, if each single call is assessed the \$3.00 ancillary charge, the incarcerated or called person is charged \$6.15 for each call, or a total of \$92.25 for the 15 calls—a 74 percent increase over the \$53.00. NASUCA thinks investigation is merited as to whether the charges of the credit card companies or other relevant factors justify this large discrepancy. In Iowa, it was brought to light by one ICS provider that some correctional agencies have negotiated or required a lower cap than \$3.00. *In re Securus Technologies, Inc.*, Iowa Utilities Board Docket No. TF-2019-0033, Comments Regarding Revised Tariff filed April 1, 2021, at 7. Logical follow-up questions include which correctional agencies have taken such action, why have they done so, and what is the magnitude of the variation.

We would appreciate the Commission's further attention to these issues. Thank you.

Respectfully submitted,

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