

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter Of The Motion Of)	
Securus Technologies, Inc. For A Limited)	
Waiver Of Rule 4901:1-6-22 Of The Ohio)	Case No.
Administrative Code)	
)	

**MOTION OF SECURUS TECHNOLOGIES, INC. FOR A LIMITED
WAIVER OF SECTION 4901:1-6-22 OF THE OHIO ADMINISTRATIVE
CODE AND REQUEST FOR EXPEDITED RULING**

NOW COMES Securus Technologies, Inc. (“Securus”), pursuant to Ohio Administrative Code Sections 4901-1-12 and 4901:1-6-02, and files this Motion requesting that the Public Utilities Commission of Ohio (“PUCO” or “Commission”) enter an expedited Order waiving application of Rule 4901:1-6-22 to Securus for a limited period of forty-five days from and after May 24, 2018. In support of this request, Securus states as follows:

Memorandum in Support

1. By Entry issued September 4, 2014, the Commission, pursuant to Section 119.032, Revised Code, stated its intent to review the rules set forth in Chapter 4901:1-6, Ohio Administrative Code (“Rules”).
2. By Entry issued on January 7, 2015, the Commission announced the Commission’s Staff proposed changes to Chapter 4901:1-6, including 4901:1-6-22(A). The Commission solicited comments on proposed modifications to these Rules to be filed by February 6, 2015.
3. Upon information and belief, Securus did not receive the proposed changes to Chapter 4901:1-6, and thus did not file any comments with the Commission on the proposed changes.

4. Numerous parties submitted comments and reply comments to the Commission's proposed changes to Chapter 4901:1-6, but there was little to no public discussion or discourse on the Commission's proposed changes to 4901:1-6-22.

5. By Order issued on November 30, 2016, the Commission adopted changes to Chapter 4901:1-6, including 4901:1-6-22. The Commission added the new subsection (A) to provide notice to consumers consistent with requirements under 47 C.F.R. 64.710(a), and changed the maximum usage rate for intrastate IOS calls to twenty-five cents per minute for collect calls and twenty-one cents per minute for debit or prepaid calls. As for ancillary charges that an IOS provider can charge for intrastate IOS calls, the charges shall be consistent with 47 C.F.R. part 64, subpart FF.

6. On March 2, 2018, the Commission filed the proposed changes to 4901:1-6-22 with the Joint Committee on Agency Rule Review ("JCARR"). The proposed changes to 4901:1-6-22 filed with JCARR included the modifications adopted by the Commission in the November 30, 2016 Order with the exception to the standard in 4901:1-6-22(B).

- a. On November 30, 2016, the Commission adopted changes to 4901:1-6-22(B) to read, "The maximum rate of any usage sensitive charge that may be applied by an IOS provider to any intrastate IOS call shall not exceed twenty-five cents per minute for collect calls and twenty-one cents per minute for debit or prepaid calls."
- b. The amendment to 4901:1-6-22(B) filed with JCARR provides, "The maximum rate of any usage sensitive charge that may be applied by an IOS provider to any intrastate IOS call shall be consistent with 47 C.F.R. part 64, subpart FF."

7. On May 14, 2018, the Commission filed the Final version of 4901:1-6-22 with JCARR, with an effective date of May 24, 2018.

Securus Demonstrates Good Cause for a Waiver of Rule 4901:1-6-22

8. In 1997, Securus was granted a Certificate of Public Convenience and Necessity to provide interexchange services in Ohio pursuant to its tariff in Case No. 10-2527-TP-CIO.

9. Securus currently provides intrastate IOS calls to 71 facilities in Ohio. (See Affidavit of Michael Lozich, Senior Corporate Counsel and Director of Regulatory and Governmental Affairs (hereinafter “Lozich Affidavit”) at ¶ 3, attached as Exhibit A.)

10. Securus enters into facility agreements in order to provide telephone services for inmates in those 71 facilities. (Lozich Affidavit, at ¶ 4.)

11. Securus’ Senior Corporate Counsel and Director of Regulatory and Governmental Affairs, was alerted to the modifications to take effect to 4901:1-6-22 through an email notification on May 17, 2018 from a Consulting group, Inteserra Consulting Group, Inc. (Lozich Affidavit, at ¶ 5.)

12. Securus immediately identified the internal procedures that are necessary to comply with the modifications to 4901:1-6-22. (Lozich Affidavit, at ¶ 6.)

13. In order to comply with the modifications to 4901:1-6-22, Securus will need to:

- a. Review all Ohio correctional facility agreements (which consist of agreements that cover the 71 correctional facilities) for any legal obligations that may need to be modified as a result of the ruling;
- b. Provide notice to all impacted customer facilities;
- c. Execute actual rate changes in the company’s billing and rate tables;
- d. Potentially renegotiate services/commission rates based on reduced rates;
- e. Update websites, posters, and flyers on existing rate information;

- f. Update and provide training to customer care associates to field calls from consumers;
- g. Update and provide training to field service and sales personnel; and
- h. Update and educate corrections and county budget personnel on the estimated impacts to their county budgets.

(Lozich Affidavit, at ¶ 7.)

14. Securus will be unable to complete the necessary steps needed in order to comply with the modifications to 4901:1-6-22 by May 24, 2018, and respectfully requests a waiver of the modifications to 4901:1-6-22 for a period of limited period of forty-five days from and after May 24, 2018. (Lozich Affidavit, at ¶ 8.)

15. Securus seeks the limited waiver pursuant to 4901:1-35-02(B) which provides:

“The commission may, upon application or motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.”

The modifications to 4901:1-6-22 were not established by an Ohio Revised Code statute, but by Commission rule and, therefore, as permitted by Rule 4901:1-35(02)(B), the Commission is vested with the authority to waive the effective date of the rule. *See In the Matter of the Application of Ohio Power Company for a Limited Waiver of Rule 4901:1-35-10*, April 25, 2012 Order, 2012 Ohio PUC LEXIS 401, at *3-4 (granting a limited waiver of 4901:1-35-10 pursuant to 4901:1-35(02)(B)).

16. Due to the fact that the May 24, 2018 effective date for the modifications to 4901:1-6-22 is fast approaching, Securus requests an expedited ruling on this request.

17. Good cause exists for granting Securus' current motion for limited waiver. As the Commission is aware, Securus enters into correctional facility agreements in order to provide IOS service to jails and facilities in Ohio. Securus currently provides IOS service to 71 correctional facilities. Based upon the submitted affidavit of Securus' Senior Corporate Counsel and Director of Regulatory and Governmental Affairs, as a practical matter Securus is not able to complete all the necessary steps in order for Securus to comply with the modifications to 4901:1-6-22 by the May 24, 2018 date.

18. In addition, as a legal matter, Securus is in the process of determining what maximum rate of usage should be applied for intrastate IOS calls in order to be "consistent with 47 C.F.R. part 64, subpart FF." 47 C.F.R. part 64, subpart FF includes two sections on maximum per-minute usage rates, Section 64.6010 (Inmate Calling Services rate caps) or Section 64.6030 (Inmate Calling Services interim rate cap).

19. During the period of a limited waiver, Securus intends to work with PUCO staff in order to understand the Commissions' expectations of the reference to 47 C.F.R. part 64, subpart FF.

WHEREFORE, for the foregoing reasons, Securus respectfully requests that the Commission grant a waiver of Rule 4901:1-6-22 for a period of forty-five days from and after May 24, 2018. Because the May 24, 2018 effective date is rapidly approaching, Securus requests an expedited ruling on this request.

Dated: May 21, 2018

Respectfully submitted,

/s/ Michele L. Noble

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Summary: Motion for Limited Waiver and Request for Expedited Ruling electronically filed by Michele L Noble on behalf of Securus Technologies, Inc.