

Subpart FF—Inmate Calling Services

SOURCE: 78 FR 67975, Nov. 13, 2013, unless otherwise noted.

§ 64.6000 Definitions.

As used in this subpart:

(a) *Ancillary Service Charge* means any charge Consumers may be assess for the use of Inmate Calling services that are not included in the per-minute charges assessed for individual calls. Ancillary Service Charges that may be charged include the following. All other Ancillary Service Charges are prohibited.

(1) *Automated Payment Fees* means credit card payment, debit card payment, and bill processing fees, including fees for payments made by interactive voice response (IVR), web, or kiosk;

(2) *Fees for Single-Call and Related Services* means billing arrangements whereby an Inmate's collect calls are billed through a third party on a per-call basis, where the called party does not have an account with the Provider of Inmate Calling Services or does not want to establish an account;

(3) *Live Agent Fee* means a fee associated with the optional use of a live operator to complete Inmate Calling Services transactions;

(4) *Paper Bill/Statement Fees* means fees associated with providing customers of Inmate Calling Services an optional paper billing statement;

(5) *Third-Party Financial Transaction Fees* means the exact fees, with no markup, that Providers of Inmate Calling Services are charged by third parties to transfer money or process financial transactions to facilitate a Consumer's ability to make account payments via a third party.

(b) *Authorized Fee* means a government authorized, but discretionary, fee which a Provider must remit to a federal, state, or local government, and which a Provider is permitted, but not required, to pass through to Consumers. An Authorized Fee may not include a markup, unless the markup is specifically authorized by a federal, state, or local statute, rule, or regulation.

(c) *Average Daily Population (ADP)* means the sum of all inmates in a facility for each day of the preceding calendar year, divided by the number of days in the year. ADP shall be calculated in accordance with §64.6010(e) and (f);

(d) *Collect Calling* means an arrangement whereby the called party takes affirmative action clearly indicating that it will pay the charges associated with a call originating from an Inmate Telephone;

(e) *Consumer* means the party paying a Provider of Inmate Calling Services;

(f) *Correctional Facility or Correctional Institution* means a Jail or a Prison;

(g) *Debit Calling* means a presubscription or comparable service which allows an Inmate, or someone acting on an Inmate's behalf, to fund an account set up though a Provider that can be used to pay for Inmate Calling Services calls originated by the Inmate;

(h) *Flat Rate Calling* means a calling plan under which a Provider charges a single fee for an Inmate Calling Services call, regardless of the duration of the call;

(i) *Inmate* means a person detained at a Jail or Prison, regardless of the duration of the detention;

(j) *Inmate Calling Service* means a service that allows Inmates to make calls to individuals outside the Correctional Facility where the Inmate is being held, regardless of the technology used to deliver the service;

(k) *Inmate Telephone* means a telephone instrument, or other device capable of initiating calls, set aside by authorities of a Correctional Facility for use by Inmates;

(l) *International Calls* means calls that originate in the United States and terminate outside the United States;

(m) *Jail* means a facility of a local, state, or federal law enforcement agency that is used primarily to hold individuals who are;

(1) Awaiting adjudication of criminal charges;

(2) Post-conviction and committed to confinement for sentences of one year or less; or

(3) Post-conviction and awaiting transfer to another facility. The term also includes city, county or regional

§ 64.6010

47 CFR Ch. I (10–1–16 Edition)

facilities that have contracted with a private company to manage day-to-day operations; privately-owned and operated facilities primarily engaged in housing city, county or regional inmates; and facilities used to detain individuals pursuant to a contract with U.S. Immigration and Customs Enforcement;

(n) *Mandatory Tax or Mandatory Fee* means a fee that a Provider is required to collect directly from Consumers, and remit to federal, state, or local governments;

(o) *Per-Call, or Per-Connection Charge* means a one-time fee charged to a Consumer at call initiation;

(p) *Prepaid Calling* means a presubscription or comparable service in which a Consumer, other than an Inmate, funds an account set up through a Provider of Inmate Calling Services. Funds from the account can then be used to pay for Inmate Calling Services, including calls that originate with an Inmate;

(q) *Prepaid Collect Calling* means a calling arrangement that allows an Inmate to initiate an Inmate Calling Services call without having a pre-established billing arrangement and also provides a means, within that call, for the called party to establish an arrangement to be billed directly by the Provider of Inmate Calling Services for future calls from the same Inmate;

(r) *Prison* means a facility operated by a territorial, state, or federal agency that is used primarily to confine individuals convicted of felonies and sentenced to terms in excess of one year. The term also includes public and private facilities that provide outsource housing to other agencies such as the State Departments of Correction and the Federal Bureau of Prisons; and facilities that would otherwise fall under the definition of a Jail but in which the majority of inmates are post-conviction or are committed to confinement for sentences of longer than one year;

(s) *Provider of Inmate Calling Services, or Provider* means any communications service provider that provides Inmate Calling Services, regardless of the technology used;

(t) *Site Commission* means any form of monetary payment, in-kind payment,

gift, exchange of services or goods, fee, technology allowance, or product that a Provider of Inmate Calling Services or affiliate of an Provider of Inmate Calling Services may pay, give, donate, or otherwise provide to an entity that operates a correctional institution, an entity with which the Provider of Inmate Calling Services enters into an agreement to provide ICS, a governmental agency that oversees a correctional facility, the city, county, or state where a facility is located, or an agent of any such facility.

[80 FR 79173, Dec. 18, 2015]

EFFECTIVE DATE NOTE: At 81 FR 62825, Sept. 13, 2016, §64.6000 was amended by revising paragraph (n), effective Dec. 12, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 64.6000 Definitions.

* * * * *

(n) *Mandatory Tax or Mandatory Fee* means a fee that a Provider is required to collect directly from consumers, and remit to federal, state, or local governments. A Mandatory Tax or Fee that is passed through to a Consumer may not include a markup, unless the markup is specifically authorized by a federal, state, or local statute, rule, or regulation;

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§ 64.6010 Inmate Calling Services rate caps.

(a) No Provider shall charge, in the Jails it serves, a per-minute rate for Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of:

- (1) \$0.22 in Jails with an ADP of 0-349;
(2) \$0.16 in Jails with an ADP of 350-999; or
(3) \$0.14 in Jails with an ADP of 1,000 or greater.

(b) No Provider shall charge, in any Prison it serves, a per-minute rate for Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of:

- (1) \$0.11;
(2) [Reserved]

(c) No Provider shall charge, in the Jails it serves, a per-minute rate for Collect Calling in excess of:

Federal Communications Commission

§ 64.6010, Nt.

Size and type of facility	Debit/prepaid rate cap per MOU	Collect rate cap per MOU as of June 20, 2016	Collect rate cap per MOU as of July 1, 2017	Collect rate cap per MOU as of July 1, 2018
0-349 Jail ADP	\$0.22	\$0.49	\$0.36	\$0.22
350-999 Jail ADP	0.16	0.49	0.33	0.16
1,000+ Jail ADP	0.14	0.49	0.32	0.14

(d) No Provider shall charge, in the Prisons it serves, a per-minute rate for Collect Calling in excess of:

- (1) \$0.14 after March 17, 2016;
- (2) \$0.13 after July 1, 2017; and
- (3) \$0.11 after July 1, 2018, and going forward.

(e) For purposes of this section, the initial ADP shall be calculated, for all of the Correctional Facilities covered by an Inmate Calling Services contract, by summing the total number of inmates from January 1, 2015, through January 19, 2016, divided by the number of days in that time period;

(f) In subsequent years, for all of the correctional facilities covered by an Inmate Calling Services contract, the ADP will be the sum of the total number of inmates from January 1st through December 31st divided by the number of days in the year and will become effective on January 31st of the following year.

[80 FR 79179, Dec. 18, 2015]

EFFECTIVE DATE NOTES: 1. At 81 FR 62825, Sept. 13, 2016, §64.6010 was amended by revising paragraphs (b) and (d) through (f), effective Dec. 12, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 64.6010 Inmate Calling Services rate caps.

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(b) No Provider shall charge, in any Prison it serves, a per-minute rate for Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of:

- (1) \$0.13;
- (2) [Reserved]

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Size and type of facility	Collect rate cap per MOU as of effective date	Collect rate cap per MOU as of July 1, 2017	Collect rate cap per MOU as of July 1, 2018
0-349 Jail ADP	\$0.58	\$0.45	\$0.31
350-999 Jail ADP	0.54	0.38	0.21
1,000+ Jail ADP	0.54	0.37	0.19

(d) No Provider shall charge, in the Prisons it serves, a per-minute rate for Collect Calling in excess of:

- (1) \$0.16 after the December 12, 2016;
- (2) \$0.15 after July 1, 2017; and
- (3) \$0.13 after July 1, 2018, and going forward.

(e) For purposes of this section, the initial ADP shall be calculated, for all of the Correctional Facilities covered by an Inmate Calling Services contract, by summing the total number of inmates from January 1, 2015, through the effective date of the Order, divided by the number of days in that time period;

(f) In subsequent years, for all of the correctional facilities covered by an Inmate Calling Services contract, the ADP will be the sum of the total number of inmates from January 1st through December 31st divided by the number of days in the year and will become effective on January 31st of the following year.

2. At 81 FR 62825, Sept. 13, 2016, §64.6010 was amended by revising paragraphs (a) and (c), effective Mar. 13, 2017. For the convenience of the user, the revised text is set forth as follows:

§ 64.6010 Inmate Calling Services rate caps.

(a) No Provider shall charge, in the Jails it serves, a per-minute rate for Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of:

- (1) \$0.31 in Jails with an ADP of 0-349;
- (2) \$0.21 in Jails with an ADP of 350-999; or
- (3) \$0.19 in Jails with an ADP of 1,000 or greater.

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(c) No Provider shall charge, in the Jails it serves, a per-minute rate for Collect Calling in excess of:

§ 64.6020

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§ 64.6020 Ancillary Service Charge.

(a) No Provider shall charge an Ancillary Service Charge other than those permitted charges listed in § 64.6000.

(b) No Provider shall charge a rate for a permitted Ancillary Service Charge in excess of:

(1) For Automated Payment Fees—\$3.00 per use;

(2) For Single-Call and Related Services—the exact transaction fee charged by the third-party provider, with no markup, plus the adopted, per-minute rate;

(3) For Live Agent Fee—\$5.95 per use;

(4) For Paper Bill/Statement Fee—\$2.00 per use;

(5) For Third-Party Financial Transaction Fees—the exact fees, with no markup that result from the transaction.

[80 FR 79179, Dec. 18, 2015]

§ 64.6030 Inmate Calling Services interim rate cap.

No Provider shall charge a rate for Collect Calling in excess of \$0.25 per minute, or a rate for Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of \$0.21 per minute. These interim rate caps shall sunset upon the effectiveness of the rates established in § 64.6010.

[80 FR 79179, Dec. 18, 2015]

§ 64.6040 Rates for calls involving a TTY device.

(a) No Provider shall levy or collect any charge in excess of 25 percent of the applicable per-minute rate for TTY-to-TTY calls when such calls are associated with Inmate Calling Services.

(b) No Provider shall levy or collect any charge or fee for TRS-to-voice or voice-to-TTY calls.

[80 FR 79179, Dec. 18, 2015]

§ 64.6050 Billing-related call blocking.

No Provider shall prohibit or prevent completion of a Collect Calling call or decline to establish or otherwise downgrade Collect Calling solely for the reason that it lacks a billing relationship with the called party's communications service provider unless the Pro-

vider offers Debit Calling, Prepaid Calling, or Prepaid Collect Calling.

§ 64.6060 Annual reporting and certification requirement.

(a) Providers must submit a report to the Commission, by April 1st of each year, regarding interstate, intrastate, and international Inmate Calling Services for the prior calendar year. The report shall be categorized both by facility type and size and shall contain:

(1) Current interstate, intrastate, and international rates for Inmate Calling Services;

(2) Current Ancillary Service Charge amounts and the instances of use of each;

(3) The Monthly amount of each Site Commission paid;

(4) Minutes of use, per-minute rates and ancillary service charges for video visitation services;

(5) The number of TTY-based Inmate Calling Services calls provided per facility during the reporting period;

(6) The number of dropped calls the reporting Provider experienced with TTY-based calls; and

(7) The number of complaints that the reporting Provider received related to *e.g.*, dropped calls, poor call quality and the number of incidences of each by TTY and TRS users.

(b) An officer or director of the reporting Provider must certify that the reported information and data are accurate and complete to the best of his or her knowledge, information, and belief.

[80 FR 79179, Dec. 18, 2015]

§ 64.6070 Taxes and fees.

(a) No Provider shall charge any taxes or fees to users of Inmate Calling Services, other than those permitted under § 64.6020, Mandatory Taxes, Mandatory Fees, or Authorized Fees.

[80 FR 79179, Dec. 18, 2015]

§ 64.6080 Per-Call, or Per-Connection Charges.

No Provider shall impose a Per-Call or Per-Connection Charge on a Consumer.

[80 FR 79179, Dec. 18, 2015]

Federal Communications Commission

§ 64.6203

§ 64.6090 Flat-Rate Calling.

No Provider shall offer Flat-Rate Calling for Inmate Calling Services.

[80 FR 79179, Dec. 18, 2015]

§ 64.6100 Minimum and maximum Prepaid Calling account balances.

(a) No Provider shall institute a minimum balance requirement for a Consumer to use Debit or Prepaid Calling.

(b) No Provider shall prohibit a consumer from depositing at least \$50 per transaction to fund a Debit or Prepaid Calling account.

[80 FR 79179, Dec. 18, 2015]

§ 64.6110 Consumer disclosure of Inmate Calling Services rates.

Providers must clearly, accurately, and conspicuously disclose their interstate, intrastate, and international rates and Ancillary Service Charges to consumers on their Web sites or in another reasonable manner readily available to consumers.

[80 FR 79180, Dec. 18, 2015]

Subpart GG—National Deaf-Blind Equipment Distribution Program

SOURCE: 81 FR 65975, Sept. 26, 2016, unless otherwise noted.

EFFECTIVE DATE NOTE: At 81 FR 65975, Sept. 26, 2016, subpart GG was added. This subpart contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 64.6201 Purpose.

The National Deaf-Blind Equipment Distribution Program (NDBEDP) is established to support programs that distribute Equipment to low-income individuals who are deaf-blind.

EFFECTIVE DATE NOTE: At 81 FR 65978, Sept. 26, 2016, § 64.6201 was added, effective July 1, 2017.

§ 64.6203 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Covered Services.* Telecommunications service, Internet access service, and advanced communications services, including interexchange services

and advanced telecommunications and information services.

(b) *Equipment.* Hardware, software, and applications, whether separate or in combination, mainstream or specialized, needed by an individual who is deaf-blind to achieve access to Covered Services.

(c) *Individual who is deaf-blind.* (1) Any individual:

(i) Who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

(ii) Who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

(iii) For whom the combination of impairments described in paragraphs (c)(1)(i) and (ii) of this section cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation.

(2) An individual's functional abilities with respect to using Covered Services in various environments shall be considered when determining whether the individual is deaf-blind under paragraphs (c)(1)(ii) and (iii) of this section.

(3) The definition in this paragraph (c) also includes any individual who, despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives.

(d) *Specialized customer premises equipment* means equipment employed on the premises of a person, which is commonly used by individuals with disabilities to achieve access to Covered Services.