

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Policies and Rules Concerning Operator Service Providers	)	CC Docket No. 90-313
	)	
Amendment of Policies and Rules Concerning Operator Service Providers and Aggregators	)	CC Docket No. 94-158
	)	
Petition for Declaratory Ruling of Securus Technologies, Inc.	)	WC Docket No. 09-144
	)	

**DECLARATORY RULING AND ORDER**

**Adopted: September 26, 2013**

**Released: September 26, 2013**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this order, the Wireline Competition Bureau (Bureau) denies the Petition for Declaratory Ruling (Petition) filed by Securus Technologies, Inc. (Securus).<sup>1</sup> In its Petition, Securus requests a declaratory ruling that “call diversion schemes are a form of dial-around calling which Securus is permitted to block” under existing Commission precedent.<sup>2</sup> We deny the Petition because we conclude that the precedent cited by Securus does not authorize the call blocking practice described in the Petition. As the Commission has previously found, call blocking is largely antithetical to the fundamental goal of ubiquity and reliability of the telecommunications network. We find that this situation is no exception. This Declaratory Ruling and Order furthers the Commission’s goals of ensuring the integrity and reliability of telecommunications networks.<sup>3</sup>

<sup>1</sup> See Petition for Declaratory Ruling of Securus Technologies, Inc., WC Docket No. 09-144 (filed July 24, 2009) (Petition).

<sup>2</sup> See *id.* at 1.

<sup>3</sup> On August 9, 2013, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking addressing numerous issues related to calls placed by inmates in confinement facilities, and concluding that, billing-related call blocking by interstate ICS providers that do not offer an alternative to collect calling is an unjust and unreasonable practice under section 201(b). *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-113, at para. 111 (rel. Sept. 26, 2013) (*Rates for Interstate ICS Order and FNPRM*). In the Further Notice of Proposed Rulemaking, the Commission sought comment on whether it should address call blocking generally, and specifically whether there should be exceptions to the general prohibition on blocking for billing related issues, or for non-geographically based numbers. *Id.* at paras. 172-75.

## II. BACKGROUND

### A. The Inmate Calling Services Industry

2. Section 276 of the Communications Act of 1934, as amended (the Act), classifies inmate calling services (ICS) as payphone service.<sup>4</sup> However, ICS is different from the public payphone services that non-incarcerated individuals use. For example, each correctional facility is typically served by a single ICS provider, which receives an exclusive contract to serve that facility after a competitive bidding process.<sup>5</sup> Consequently, inmates only have access to payphones operated by a single provider for all available services at that payphone.<sup>6</sup>

3. ICS also differs from public payphone services because of security concerns. In light of those concerns, calls from correctional facilities often are limited to pre-approved numbers; prison security rules typically require that a special automated voice-processing system, rather than a pre-subscribed operator service provider (OSP), process inmate collect calls so that prison authorities can screen the calls; and those calls are monitored and recorded.<sup>7</sup> In addition, ICS providers may employ blocking mechanisms to prevent inmates from making direct-dialed calls, access code calls, 800/900 number calls, or calls to individuals not on the inmates' approved contact lists.<sup>8</sup>

4. ICS rates generally are much higher than rates for public payphone services, and rates for ICS long distance calls, both intrastate and interstate, are usually higher than rates for local ICS calls. In 2012, the Commission initiated a separate rulemaking proceeding to "consider whether changes to our rules are necessary to ensure just and reasonable ICS rates for interstate, long distance calling at publicly- and privately-administered correctional facilities."<sup>9</sup> In the Report and Order released today in that proceeding, the Commission required ICS rates to be cost-based and adopted safe harbor rate levels that will be presumed to meet that requirement as well as overall rate caps for interstate collect and debit/prepaid ICS calling to ensure just, reasonable, and fair interstate ICS rates.<sup>10</sup> The Commission also initiated a Further Notice of Proposed Rulemaking seeking comment on refining the rates and reforming intrastate rates, among other issues.

### B. Petition for Declaratory Ruling

5. In 2008, a company called Teleware, LLC, which was purchased by Millicorp in April 2009, began offering a Voice over Internet Protocol ("VoIP") service called ConsCallHome ("CCH").<sup>11</sup> This service provides pre-paid VoIP service to customers who wish to communicate with an incarcerated

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<sup>4</sup> "As used in this section, the term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services." 47 U.S.C. § 276(d).

<sup>5</sup> See *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Notice of Proposed Rulemaking, 27 FCC Rcd 16629, 16632, para. 5 (2012) (*2012 ICS NPRM*).

<sup>6</sup> See *id.*

<sup>7</sup> See *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Remand and Notice of Proposed Rulemaking, 17 FCC Rcd 3248, 3252 para. 9 (2002) (*Inmate Calling Order on Remand and NPRM*).

<sup>8</sup> See *id.*

<sup>9</sup> See *2012 ICS NPRM* at 16630, para. 1.

<sup>10</sup> See generally *Rates for Interstate ICS Order and FNPRM*; see also *supra* note 1 (noting that the Further Notice also seeks comment on blocking issues).

<sup>11</sup> Millicorp Comments, WC Docket No. 09-144, at 2 n.1 (filed Aug. 28, 2009).

friend or family member.<sup>12</sup> Each CCH customer is assigned a telephone number “that is a ‘local dial number’ in the community where the inmate with whom the customer wants to communicate is incarcerated.”<sup>13</sup> When an inmate dials the local number assigned to a CCH customer, Millicorp “routes the call to the CCH customer’s designated location via its IP-based network.”<sup>14</sup> Millicorp “charges its customers for [this] service,” and each CCH customer “must have a separate pre-paid account with the [correctional facility’s] selected ICS provider . . . to cover the local call charges assessed for the call” by that provider.<sup>15</sup> By using CCH, the friends and relatives of inmates have, as a practical matter, been able to pay rates for local ICS calls and avoid paying the higher rates for long distance ICS calls.<sup>16</sup>

6. On July 24, 2009, shortly after it learned of the availability of the CCH service, Securus, an ICS provider, filed the Petition that is the subject of this Order.<sup>17</sup> Securus contends that CCH and similar services are “[c]all diversion schemes” that “re-route inmate-initiated calls to unknown terminating telephone numbers.”<sup>18</sup> Securus requests “a declaratory ruling that [such] call diversion schemes are a form of dial-around calling which Securus is permitted to block under” Commission precedent governing operator services.<sup>19</sup> Securus seeks confirmation that the Commission’s 1991 Order implementing the Telephone Operator Consumer Services Improvement Act (*TOCSIA Order*) and the Commission’s 1998 Billed Party Preference Order (*BPP Order*) authorize Securus to block calls from inmates to CCH customers and subscribers to similar call routing services. The *TOCSIA Order*, among other things, adopted rules to prohibit aggregators from blocking calls to 1-800 and 1-950 telephone numbers used to access alternative service providers, but concluded that ICS providers did not meet the definition of aggregator and, therefore, could block such calls.<sup>20</sup> The *BPP Order* declined to adopt billed party preference, which would permit a consumer to choose its operator service provider, for outgoing calls by prison inmates.<sup>21</sup>

7. Earlier this year, in conjunction with a transfer of control application filed with the Commission, Securus made a commitment “to cease and desist any and all blocking of inmate-initiated calls to Millicorp Numbers except to the extent permitted” under certain procedures developed jointly by Securus and Millicorp.<sup>22</sup> Although we expect that Securus will abide by its commitment to discontinue

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<sup>12</sup> *Id.* at 5.

<sup>13</sup> *Id.* at 6.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> *Id.* at 6.

<sup>16</sup> See Citizens United for Rehabilitation of Errants (CURE) Comments, WC Docket No. 09-144, at 1 (filed Aug. 31, 2009) (noting that consumers have an “incentive to use . . . call routing services” such as CCH in order to avoid paying the “exorbitant rates” for long-distance calls made by inmates); see also 2012 ICS NPRM, 27 FCC Rcd at 16644 para. 41 (citing evidence that recipients of calls from inmates “are obtaining telephone numbers, from wireless or VoIP providers, that are local to the prison to take advantage of lower local calling rates”).

<sup>17</sup> Petition at 2.

<sup>18</sup> Petition at 6.

<sup>19</sup> *Id.* at 1 (citing *Policies and Rules Concerning Operator Service Providers*, CC Docket 90-313, Report and Order, 6 FCC Rcd 2744 (1991) (*TOCSIA Order*)).

<sup>20</sup> *TOCSIA Order*, 6 FCC Rcd at 2751-52, paras. 14-15.

<sup>21</sup> *Billed Party Preference for InterLATA 0+ Calls*, CC Docket No. 92-77, Second Report and Order and Order on Reconsideration, 13 FCC Rcd 6122, 6156, para. 57 (1998) (*BPP Order*).

<sup>22</sup> Letter from Dennis J. Reinhold, Vice President, General Counsel, and Secretary, Securus, to Julie Veach, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 13-79, at 1 (filed Apr. 26, 2013).

the blocking of inmates' calls to CCH customers, Millicorp has asserted that at least one other ICS provider, Global Tel\*Link Corp. (GTL), is blocking calls from inmates to Millicorp's customers.<sup>23</sup> Moreover, several ICS providers have filed comments supporting Securus's Petition.<sup>24</sup> Because a number of ICS providers have taken the position that Commission precedent permits the blocking of inmate calls to persons who use call routing services such as those described in the Petition, we believe that it is necessary to address the interpretation of that precedent at this time.

### III. DISCUSSION

8. The "ubiquity and reliability of the nation's telecommunications network" are critical to ensuring the nationwide availability of dependable telephone service.<sup>25</sup> One of the seminal objectives of the Communications Act is "to make available, so far as possible, to all the people of the United States, . . . a rapid, efficient, Nation-wide and world-wide wire and radio communication services with adequate facilities."<sup>26</sup> The blocking of telephone calls is antithetical to this fundamental goal. The Commission has long recognized that the refusal to deliver voice telephone traffic "risks degradation of the country's telecommunications network."<sup>27</sup> Call blocking poses a serious threat to "the ubiquity and seamlessness" of the network.<sup>28</sup> Without a general ban on call blocking, "callers might never be assured that their calls would go through."<sup>29</sup>

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<sup>23</sup> See Millicorp Comments at 8 (Millicorp has asked "the FCC's Enforcement Bureau to investigate the unlawful call blocking practices of Securus and GTL"); see also Letter from Phillip R. Marchesiello, Counsel to Millicorp, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 09-144, at 2 (filed Apr. 26, 2013); Letter from Phillip R. Marchesiello, Counsel to Millicorp, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 09-144, at 2-3 (filed July 12, 2013) (Millicorp July 12<sup>th</sup> *Ex Parte* Letter) (highlighting recent instances of GTL blocking calls to CCH customers).

<sup>24</sup> See Pay Tel Communications Comments, WC Docket No. 09-144, at 1 (filed Aug. 31, 2009) ("Pay Tel fully supports the Petition and urges the Commission to expeditiously grant the relief requested by Securus."); CenturyLink Comments, WC Docket No. 09-144, at 1 (filed Aug. 31, 2009) ("CenturyLink fully supports the Petition.") (CenturyLink Comments); Inmate Calling Solutions Comments, WC Docket No. 09-144, at 3 (filed Aug. 24, 2009) ("ICS supports the Petition's request to obtain the clarification being sought."); see also Letter from Kermit D. Heaton, Value-Added Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 09-144 (filed Aug. 21, 2009); Letter from Paul Jennings, AGM, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 09-144 (filed Aug. 28, 2009); Letter from Stephanie B. Jackson, Network Communications International Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 09-144 (filed Aug. 28, 2009); Letter from Tommie E. Joe, Public Communications Services, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 09-144 (filed Aug. 28, 2009); Letter from Anthony R. Bambocci, Inmate Telephone, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 09-144 (filed Aug. 31, 2009).

<sup>25</sup> *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, Declaratory Ruling and Order, 22 FCC Rcd 11629, 11629, para. 1 (Wireline Comp. Bur. 2007) (2007 Declaratory Ruling).

<sup>26</sup> 47 U.S.C. § 151; see also 47 U.S.C. § 254(b)(1)-(7) (directing the FCC to adopt policies that preserve and advance universal access to reliable and affordable telecommunications and information services).

<sup>27</sup> *Connect America Fund et al.*, WC Docket No. 10-90 et al., 26 FCC Rcd 17663, 18029, para. 973 (2011) (*USF/ICC Transformation Order*) (internal quotation marks omitted), *petitions for review pending In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

<sup>28</sup> *Access Charge Reform*, CC Docket No. 96-262, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923, 9932-33, para. 24 (2001).

<sup>29</sup> *Id.*

9. In order to safeguard the integrity of the national telecommunications network, the Commission has largely prohibited call blocking.<sup>30</sup> In general, “Commission precedent provides that no carriers . . . may block, choke, reduce or restrict [telecommunications] traffic in any way.”<sup>31</sup> In particular, in its November 2011 order reforming universal service and intercarrier compensation, the Commission made clear that the broad prohibition on call blocking applies to VoIP calls that are exchanged over the Public Switched Telephone Network (PSTN).<sup>32</sup> The Commission has allowed call blocking “only under rare and limited circumstances.”<sup>33</sup> As we explain further below, we conclude that Securus has identified no exception to Commission precedent that would permit it to block calls from inmates to subscribers of call routing services.<sup>34</sup>

10. Securus claims that the blocking of inmates’ calls to call routing services, such as calls to Millicorp’s CCH customers, falls within one of the narrow exceptions to the Commission’s general prohibition on call blocking. In particular, Securus maintains that the call blocking practices described in its Petition are permissible under the Commission’s 1991 *TOCSIA Order*.<sup>35</sup> We disagree.

11. As a threshold matter, call routing services like Millicorp’s CCH services are not expressly addressed by the *TOCSIA Order*. By its terms, the *TOCSIA Order* is limited in scope. It was issued solely for purposes of implementing the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA).<sup>36</sup> Congress’s purpose in enacting TOCSIA was “to protect consumers who make interstate operator services calls from pay telephones, hotels, and other public locations against unreasonably high rates and anticompetitive practices.”<sup>37</sup> Congress directed the Commission to conduct a rulemaking to implement the requirements of TOCSIA.<sup>38</sup> The Commission issued the *TOCSIA Order* in order to fulfill this statutory mandate. The *TOCSIA Order* imposes requirements on aggregators in how they treat providers of “operator services” as defined by Section 226 of the Act.<sup>39</sup> Section 226 defines

<sup>30</sup> See *Rural Call Completion*, WC Docket No. 13-39, Notice of Proposed Rulemaking, 28 FCC Rcd 1569, 1572-73, paras. 7-11 (2013) (summarizing actions by the Commission and its staff to bar the blocking of phone calls).

<sup>31</sup> *2007 Declaratory Ruling*, 22 FCC Rcd at 11631, para. 6. This ban on call blocking is nothing new. The Commission has acted to prohibit the blocking of phone calls for many years. See, e.g., *Blocking Interstate Traffic in Iowa*, Memorandum Opinion and Order, 2 FCC Rcd 2692 (1987).

<sup>32</sup> See *USF/ICC Transformation Order*, 26 FCC Rcd at 18028-29, paras. 973-74.

<sup>33</sup> *2007 Declaratory Ruling*, 22 FCC Rcd at 11631 n.20. We recognize that there are certain instances in which the Commission has permitted call blocking. For example, the Commission concluded that it was reasonable for AT&T to block calls to a chat line that was engaged in an arbitrage scheme with a competitive access provider to artificially inflate the access fees charged to AT&T. See *id.* at 11631-32 n.20 (citing *Total Telecommunications Services, Inc., and Atlas Telephone Co., Inc. v. AT&T Corp.*, File No. E-97-003, Memorandum Opinion and Order, 16 FCC Rcd 5726 (2001)).

<sup>34</sup> As we note above, legitimate security concerns may justify ICS providers blocking calls in certain circumstances. For example, for security reasons, ICS providers may block attempts by inmates to call victims, witnesses, prosecutors and judges. See *supra* para. 3; CenturyLink Comments at 2. We conclude here, however, that the precedent cited by Securus does not provide ICS providers the ability to unilaterally block all numbers of a particular provider as the petitioners claim. We further note that neither petitioners nor commenters have supported their generalized allegation of security concerns with specificity in this record. This Order should not, however, be interpreted to prevent ICS providers from blocking due to legitimate security concerns.

<sup>35</sup> Petition at 1 (citing *TOCSIA Order*, 6 FCC Rcd 2744 (1991)).

<sup>36</sup> Pub. L. No. 101-435, 104 Stat. 986 (1990) (codified at 47 U.S.C. § 226).

<sup>37</sup> S. Rep. No. 101-439, at 1 (1990).

<sup>38</sup> 47 U.S.C. § 226(d).

<sup>39</sup> See *TOCSIA Order*, 6 FCC Rcd at 2753-55, paras. 18-21.

“operator services” as “any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than – (A) automatic completion with billing to the telephone from which the call originated; or (B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.”<sup>40</sup> Those services would include calls using a calling card from a public payphone, or from a hotel.

12. Among other things, TOCSIA required each “aggregator” to “ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use ‘800’ and ‘950’ access code numbers to obtain access to the provider of operator services desired by the consumer.”<sup>41</sup> To implement this statutory requirement, the Commission adopted a rule that bars aggregators from blocking “800” and “950” access number calls.<sup>42</sup> For purposes of this rule, the Commission adopted the definition of “aggregator” set forth in TOCSIA: “any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.”<sup>43</sup> In the *TOCSIA Order*, however, the Commission clarified that this “definition of ‘aggregator’ does not apply to correctional institutions in situations in which they provide inmate-only phones.”<sup>44</sup> The Commission concluded that “the provision of . . . phones to inmates presents an exceptional set of circumstances that warrants their exclusion from” the Commission’s regulation of aggregators under TOCSIA.<sup>45</sup> The Commission, therefore, declined to require correctional institutions to offer inmates the choice of operator services providers. Thus, as Securus’s Petition observes, ICS providers are not prohibited by the *TOCSIA Order* from blocking “800” and “950” access calls because the TOCSIA ban on such blocking – a prohibition applicable to all aggregators – does not apply to correctional institutions insofar as they provide inmate-only phones.<sup>46</sup> This does not lead to the conclusion, however, that ICS providers also are not prohibited from blocking other services, such as the CCH call routing service, that were not addressed in the *TOCSIA Order*.

13. We also examine whether the CCH service falls within the scope of the underlying statutory category of services at issue in the *TOCSIA Order* such that it would follow from the logic of that order—if not its express terms—that such services may be permissibly blocked. Securus’s Petition attempts to draw an analogy between the operator services addressed by the *TOCSIA Order* and the call routing service offered by Millicorp. The Petition notes that under the *TOCSIA Order*, “inmates can be blocked from using 1-800 or 1-950 dial-around services in order to use an alternative service provider.”<sup>47</sup> Securus contends that CCH and similar “[c]all diversion” schemes “are simply dial-around in another –

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<sup>40</sup> 47 U.S.C. § 226(a)(7).

<sup>41</sup> 47 U.S.C. § 226(c)(1)(B).

<sup>42</sup> See *TOCSIA Order*, 6 FCC Rcd at 2761-62, paras. 42-46; see also 47 C.F.R. § 64.704(a).

<sup>43</sup> 47 C.F.R. § 64.708(b); 47 U.S.C. § 226(a)(2).

<sup>44</sup> *TOCSIA Order*, 6 FCC Rcd at 2752, para. 15.

<sup>45</sup> *Id.*

<sup>46</sup> See Petition at 4-5. In 1995, the Commission issued a Notice of Inquiry seeking comment on whether it should change the rules applicable to inmate-only telephones in correctional institutions. *Amendment of Policies and Rules Concerning Operator Service Providers and Call Aggregators*, CC Docket No. 94-158, Notice of Proposed Rulemaking and Notice of Inquiry, 10 FCC Rcd 1533, 1534-35 paras. 8-10 (1995). The Commission has never adopted any such changes.

<sup>47</sup> Petition at 15 (citing *TOCSIA Order*, 6 FCC Rcd at 2752, para. 15).

illicit – form.”<sup>48</sup> We find no merit in this assertion. Rather, we agree with another commenter that the call routing services at issue here are “fundamentally different” from the legal category of “operator services” covered by the *TOCSIA Order*.<sup>49</sup> We conclude that the call routing services described in the Petition are not “operator services” under section 226 of the Act because they do not include “any automatic or live assistance to a consumer to arrange for billing or completion . . . of an interstate telephone call.”<sup>50</sup> The call routing services are not initiated by the calling party, as in the case of “operator services,” but rather are subscribed to by the party being called. The calling party does not have to engage any automatic or live assistance in order to complete the call: indeed, for the calling party, the routed call is completed in a seamless manner.

14. For similar reasons, we reject Securus’s claims that the blocking of call routing services such as CCH is authorized by the *BPP Order*.<sup>51</sup> The *BPP Order*, like the *TOCSIA Order*, pertains to operator services, which are plainly distinguishable from call routing services such as CCH. BPP is simply a method of offering consumers initiating a call a choice of operator services: “[u]nder BPP, operator-assisted long-distance traffic [is] carried automatically by the OSP preselected by the party being billed for the call.”<sup>52</sup> BPP would permit the customer initiating the call to choose the OSP to carry its traffic when it used a calling card.<sup>53</sup> In the *BPP Order*, the Commission declined to implement “BPP for outgoing calls by prison inmates,” in part because the agency did not want to undermine “the practice of prison authorities at both the federal and state levels . . . to grant an outbound calling monopoly to a single IXC [interexchange carrier] serving the particular prison.”<sup>54</sup> Essentially, the Commission was concerned that if it gave inmates the ability to use BPP to select alternative operator services providers when placing long-distance calls from prison payphones, correctional facilities could no longer restrict inmates to a single provider of phone service.<sup>55</sup> Such a development could compromise the ability of prison officials to monitor inmates’ calls.<sup>56</sup> The same concern justified the Commission’s decision in the *TOCSIA Order* to permit blocking of inmates’ “800” and “950” access calls.<sup>57</sup> That rationale for call blocking, however, does not apply to the call routing services at issue here. Those services are used not by inmates, but by the friends and relatives that are the recipients of inmate-initiated calls. Even when an inmate’s relatives subscribe to a service like CCH, the inmate must still use his prison’s ICS provider to call his family.

15. Securus has identified no Commission precedent that would authorize the blocking of calls from inmates to persons who subscribe to call routing services, regardless of whether those routing services offer local or non-local numbers to their customers. The Commission orders on which Securus bases its Petition carved out a limited exception to the call blocking prohibition in order to allow ICS providers to prevent inmates from obtaining operator services from alternative providers. As we have explained, however, this narrow exception to the ban on call blocking does not apply to the call routing services described by the Petition. Those services are not operator services. The exception established in

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<sup>48</sup> *Id.*

<sup>49</sup> See CURE Comments at 13.

<sup>50</sup> 47 U.S.C. § 226(a)(7).

<sup>51</sup> See Petition at 5-6 (citing *BPP Order*, 13 FCC Rcd at 6156, para. 57).

<sup>52</sup> *BPP Order*, 13 FCC Rcd at 6142-43, para. 35.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 6156, para. 57.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *TOCSIA Order*, 6 FCC Rcd at 2752, para. 15.

the *TOCSIA Order* was designed with a specific purpose in mind: to permit call blocking in order to prevent inmates from using alternative providers of phone service to place outgoing calls. That justification for call blocking does not apply to the calls at issue here. The call routing services described in the Petition are not used by inmates placing phone calls, but by persons who receive calls from inmates.

#### IV. CONCLUSION

16. For the reasons discussed above, we deny Securus's Petition. We find that the Commission precedent permitting ICS providers to block inmates from using operator services under Section 226 of the Act does not authorize the blocking of inmates' calls to persons who subscribe to call routing services such as Millicorp's CCH service.<sup>58</sup>

#### V. ORDERING CLAUSES

17. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 2, 4(i), 201 and 202 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 201 and 202, and the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, this Declaratory Ruling and Order in CC Docket No. 90-313 and 94-158 and WC Docket No. 09-144 IS ADOPTED.

18. IT IS FURTHER ORDERED that the Petition for Declaratory Ruling filed by Securus Technologies, Inc. on July 24, 2009 is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach  
Chief, Wireline Competition Bureau

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<sup>58</sup> Under this Order, blocking is not authorized regardless of the jurisdiction of the number being blocked – whether the number is a local number or a non-local number to the correctional facility. See Millicorp July 12<sup>th</sup> *Ex Parte* Letter at 4 (explaining that in certain instances Millicorp will assign customers non-local numbers, for example international customers or instances where the facility is blocking all inmate calls to certain NPA-NXX codes local to the facility).