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Kenneth Andre Dade
EA-6297
SCI Fayette
Box 9999
LaBelle Pa 15450

August 22, 2016

Rosemary Chiavette, Secretary
Pennsylvania Public Utility Commission
Office of Administration Law Judge
The Honorable Steven K. Hass
PO Box 3265
Harrisburg Pa 17105-3265

RE: Kenneth Andre Dade V Securus Technology Inc. Docket No. C-2016-2547396

Dear Judge Haas:

Please find the enclosed motion filed on behalf of Kenneth Andre Dade. Please contact me for any new changes in the proceeding, as I would like to go forward with a hearing.

Thank you for your time and attention in this matter.

cc;
David Zambito

Respectfully Submitted,

/s/ 
Kenneth Andre Dade Ea-6297

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Kenneth Andre Dade :
Complainant :
V. : Docket No. C-2016-2547396
Securus Technologies Inc. :
Respondent :

MOTION TO STRIKE, DISMISS, OR
SUSPEND TARIFF NO. 3 SUPPLEMENT
NO. 5 IN ITS ENTIRETY

AND NOW, COMES, Kenneth Andre Dade, the Complainant, and files this motion to strike, dismiss, or suspend tariff No. 3, and supplement no 5 in its entirety and avers as follows:

1) The Complaiant Kenneth Andre Dade was scheduled a hearing on August 23, 2016 infront of the Honorable Administration law Judge Steven K. Haas concerning a 5% gross receipt tax increase on all debit calls made through the inmate phone system.

2) The Respondent, David P. Zambito contacted the Complainant on August 18, 2016 via a conference call made through Ms. Allen regarding a settlement 52 Pa Code 5.231(a)

3) The settlement consist of a refund of \$25.00 which will be credited to Complainant phone account. This is the total debit charge tax fee which came out to be \$27.87.

4) The Respondent did not mention anything regarding the questions Complainant asked in his August 10, 2016 letter to Respondent. (SEE ATTACHMENT A)

5) The Complainant is claiming that there was no notice to the inmate population about a tax increase UNTILL after the formal complaint was filed on April 25, 2016: That inmates are being double taxed: and that Securus Technologies are engaging in misleading and deceptive conduct by violating PUC Pa Codes.

6) The Pennsylvania Tax Reform Code of 1971 (TRC) imposes a 6% tax of the purchases on the sale at retail of tangible personal property or certain taxable service within the Commonwealth of Pennsylvania 72 P.S. 7202(a) This tax must be collected by the vendor from the purchaser and remitted to the Department of Revenue. The sale of prepaid telecommunication is subject to Pa sales tax section 7202(e) Prepaid telecommunication is defined as a tangible item, such as a telephone calling card.

7) Therefore, the sale of prepaid telecommunication, including telephone calling cards is subject to Pa sale tax. Accordingly the DOC must collect this tax from inmates when it sells prepaid telephone calling cards at its state correctional institutions.

8) Securus Technologies is applying a 5% gross receipt tax to ALL DEBIT calls made through the inmate phone system. They're stating that this a mandatory telecomtax that was imposed by the Commonwealth of Pennsylvania on them, who then imposed it on the inmate general population. Securus Technologies is stating that they billed Complainant in conformance with its Commission's approved tariff.

9) Complainant read the tariff no. 3 in its entirety-supplement No. 5 and can't find nothing in it that states starting April 1, 2016 that there will be a 5% gross receipt tax that will be imposed on the general population.

10) Public Utilities may file for a general rate increase pursuant to section 66 Pa C.S. 1308(d). A general rate increase is defined therein as one which affects more than five percent of the public utility's customers and amount to an increase in excess of three percent of the utility's total gross annual intrastate operating revenues. A General rate increase may be suspended for a maximum of seven months after an initial (60) review by the Commission.

11) To avoid double taxation, the statute also provides that a taxpayer who pays a sales tax is not required to pay a use tax 72 P.S. 7202(b).

12) Complainant is being taxed for using the phones as well as when he purchase the prepaid calling card.

13) Further, Complainant do not know what the certificate satisfaction consist of. Respondent for Securus Technologies mailed Complainant a letter, and a back page with a place for Complainant to sign and date, but no front page as to what exactly Complainant is agreeing on. This in its self could ONLY be viewed as deceptive and misleading by Securus Technologies (SEE ATTACHMENT B)

14) The Complainant is requesting to go forward with the hearing that was scheduled due to Respondents failure to explain the tariff No. 3 and supplement No 5.

15) The Complainant is respectfully requesting to have *Pro-hac-Vice* appointed for the next hearing.

16) This motion is not to delay the proceedings or prejudice the Respondent The Complainant is just dissatisfied from the conference call made August 18, 2016 @ 100:00 am.

17) A response or objection to this motion shall be filed with the Commission withing (2) days of service of the motion.

WHEREFORE, THE Complainant is requesting that this motion be granted and to strike, dismiss, or suspend tariff No 3 and supplement No. 5 in its entirety due to the circumstances mentioned above as well as appointment of *Pro-Hac-Vice* for the next hearing.

Respectfully Submitted,

/s/ *Kenneth Dade*
Kenneth Dade EA-6297

DATE: August 23, 2016

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certificate of service

I hereby certify that a true and correct copy of the within "MOTION TO STRIKE, DISMISS, OR SUSPEND TARIFF NO.3 AND SUPPLEMENT NO. 5" was served by first class mail on the 23rd day of August 2016 upon the following person(s):

(3) copies to:

Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Office of Administration Law Judge
The Honorable Steven K. Hass
P.O. Box 2365
Harrisburg Pa 17105-3265

(1) copy to:

David P. Zambito
COZEN O'CONNOR
17 North Second Street
Suite 1410
Harrisburg Pa 17101

Date: August 23, 2016

/s/ 
Kenneth Dade Ea-6297

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ATTACHMENT

"A"

Kenneth Dade
EA-6297
SCI Fayette
Box 9999
LaBelle Pa 15450

August 10, 2016

COZEN O'CONNOR
David P. Zambito
17 North Second Street
Suite 1410
Harrisburg Pa 17101

RE: Kenneth Andre Dade v Securus Technologies Inc. Docket No. C-2016-2547396

Dear Mr. Zambito:

Thank you for providing me with a copy of the approved tariff as well as the phone records. I read the tariff and the phone records, I haven't notice anywhere in the tariff that starting:

"April 1, 2016, there will be a 5% gross receipt tax to all debit calls made through the inmate phone system. That this is a mandatory telecom tax that is imposed by the Commonwealth of Pennsylvania."

What I have read on page 16, section 5.6: TAXES:

"all federal, state, and local taxes for operator assisted calls are billed as separate line, items and are not included in the quoted rates, with the exception of debit account calls."
issued 4-16-16 effective 4-17-16

I have read the tariff No. 3 in its entirety, fifth revised. I don't understand ho Securus Technologies is taxing the inmate population at SCI Fayette without approval from PUC for a (15) mintue call?

It is my understanding that 52 Pa Code 53.31 states:

unless the Commission otherwise order a pulic utility
to which this subchapter applies may not change an
existing and duly established tariff, except after notice
of (60) days to the public

There was never no notice issued untill after this complaint was filed. I tryed to subpoena the major hear at SCI Fayette, he's the one who issued these memo once there passed down to to him for the general population to read. He told me he's not able to testify due to policies, but if subpoena, he'll have to testify.

And lastly, the 5% gross reciept tax that the Commonwealth of Pennsylvania is imposing on Securus Technologies shouldn't have any effect to the inmate population due to Pennsylvania tax reform code of 1971 (TRC) 72 P.S. §7202(a)

Please find the time to explain the tariff as to how it applies to the 5% gross reciept tax and where its stated that this is going to go into effect April 1, 2016, and when this memo or notification was issued. You can also set up a call threw my counselor Gina Perry.

Thank you for your time and attention in this matter, and I look forward of hearing from you before the hearing.

Sincerely,

KJ Ode

CC:
enclosure

TO: Joseph F Trempus
major of Unit Management
FROM: Kenneth Andre Dade EA-6297 DB-2050
DATE: August 1, 2016
RE: The posting of Securus Technologies notice to the
inmate population about the 5% gross receipt tax

I filed a formal complaint about a tax increase on calls made via the phone system with the Pennsylvania Public Utility Commission on April 25, 2016. Kenneth Andre Dade v Securus Technologies docket No. C-2016-2547396.

It is alleged that:

- the prices went up without prior or proper notice:
- Securus Technologies is engaging in misleading and deceptive conduct:
- inmates are being doubled taxed:

The complaint was assigned to Administrative Law Judge, Steven K. Haas. A hearing is scheduled on August 23, 2016, @ 9:00am (SEE ATTACHMENT A) It is stated in paragraph 7 & 9, that I may subpoena witnesses and that I must bear the burden of proof that I am entitled to relief.

One of the issues I'm having is, as to when was this memo issued by Securus Technologies. (SEE ATTACHMENT B) Securus Technologies stated that this memo was issued (60)days in advance before April 1, 2016, but as you can see, it's not dated.

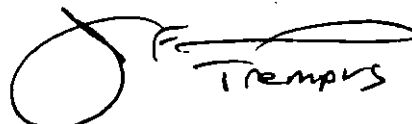
My argument is that this memo was issued ONLY after the complaint was served to Securus Technologies after April 25, 2016.

What I'm asking is, if appropriate, since you are the one who issues these memo to the housing units once they're submitted to you, is to testify at the hearing as to when this memo from Securus Technologies submitted it for posting.

If so, I would have to submit an application to the Pennsylvania Public Utility Commission to subpoena you (SEE PARAGRAPH 7)

If you would like to read what all was filed, I can send you copies.

I am unable to participate
in this endeavor.


Trempus

THE QUESTION(S) WILL CONSIST OF

- 1) State your name & spell your last name:
- 2) Where do you work & how long have you work hear:
- 3) Did you receive a memo from Securus Technologies:
- 4) When did you receive it:
- 5) what did it say:
- 6) When was it posted for the inmate population to read:

The lawyer, D. Troy Sellars may ask you some question(s) as well as the Judge.

Agian, if this appropriate, and you're will to testify at the hearing on August 23, 2016, @ 9:00 am, I would ask that you please respond back to this letter before August 5, 2016 so I submit a application for a subpoena.

Thank you for your attention in this matter.

print

date

sign

ATTACHMENT

"B"



August 18, 2016

VIA FIRST CLASS MAIL

David P. Zambito

Direct Phone 717-703-5892

Direct Fax 215-989-4216

dzambito@cozen.com

Kenneth Andre Dade
EA-6297
SCI Fayette
P.O. Box 9999
LaBelle, PA 15450-0999

Re: Kenneth Andre Dade (EA-6297) v. Securus Technologies, Inc.; Docket No. C-2016-2547396

SECURUS TECHNOLOGIES, INC.; SETTLEMENT CREDIT TO KENNETH ANDRE DADE

Dear Mr. Dade:

This letter will confirm that you have agreed to settle the above-referenced complaint, and release Securus Technologies, Inc. from any claims that could arise from the facts raised in such complaint, in exchange for a credit of Twenty-Five Dollars and No Cents (\$25.00) to your telephone debit account. I have enclosed two copies of this letter. Please sign and date both copies in the space indicated below. Keep one copy for your records and return the other to me in the enclosed self-addressed stamped envelope. Upon receipt of my copy of the signed letter, I will instruct Securus to make the credit to your account.

Thank you for your attention to this matter. Please contact me with any question regarding this settlement.

Sincerely,

GOZEN O'CONNOR

By: David P. Zambito
Counsel for Securus Technologies, Inc.

DPZ/kmg
Enclosures

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Kenneth Andre Dade
August 18, 2016
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Agreed to by:

Kenneth Andre Dade EA-6297

Date: _____