

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard Mercaldo

v.

Securus Technologies, LLC

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C-2024-3051564

INITIAL DECISION

Before
Alphonso Arnold III
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint of a telephone utility customer for his failure to demonstrate that the utility has violated the Public Utility Code, or a regulation or order of the Commission regarding the service provided to him.

HISTORY OF THE PROCEEDING

On September 27, 2024, Richard Mercaldo (“Mr. Mercaldo” or “Complainant”) filed a Formal Complaint (“Complaint”) against Securus Technologies, LLC (“Securus” or “Respondent”) with the Pennsylvania Public Utility Commission (“Commission”). Mr. Mercaldo explained that he is an inmate at the Coal Township State Correctional Institution (“SCI Coal Township”). Mr. Mercaldo complained of not being able to place calls to Frank Radons (“Mr. Radons”) in Germany through his Securus prepaid telephone account. For relief, Mr. Mercaldo requested that the

Commission order Securus to “correct problems and recompense for communication lost and complete and total lack of unavailable remedies.” Complaint ¶ 5. The Complaint was served on Securus on October 9, 2024.

On October 29, 2024, Securus filed an Answer with New Matter to the Complaint. Securus explained that it was an inmate telephone service provider that handles calls and various products and services for, among other correctional institutions, SCI Coal Township. Securus asserted that Mr. Mercaldo has been unable to call Mr. Radons because Mr. Radons requested to have his phone number blocked. Securus further asserted that if Mr. Radons wished to remove the block on Mr. Mercaldo’s number he could contact Securus.

In its New Matter, endorsed with a Notice to a Plead, Securus argued that the claims asserted in the Complaint concern a phone block that was instituted by Mr. Radons to block any calls received by Mr. Mercaldo and that Mr. Mercaldo does not have standing to request that the phone block, which Mr. Radons requested, be removed. In the event that the Commission finds that Mr. Mercaldo has standing, Securus argued that Mr. Radons is an indispensable and necessary third-party to this proceeding. Further, Securus argued that the Complaint is legally insufficient.

On November 12, 2024, Mr. Mercaldo filed a Reply to Securus’s Answer and New Matter. In his Reply, Mr. Mercaldo responded to the arguments in Securus’s Answer and New Matter.

On November 26, 2024, the Commission issued an Initial Telephonic Hearing Notice, scheduling an evidentiary hearing for this matter for January 22, 2025.

On December 6, 2024, the Commission received a letter from Mr. Mercaldo, dated December 3, 2024, wherein he stated that he did not receive the

Commission's recent correspondence (Hearing Notice) mailed to him because the correspondence was returned to the Commission by SCI Coal Township.

On December 26, 2024, the Commission received a letter from Mr. Mercaldo, dated December 23, 2024, wherein he stated again that he did not receive the Commission's recent correspondence due to it being returned to the Commission by SCI Coal Township.

On January 2, 2025, the Commission issued my Prehearing Order which provided the procedural rules that would govern the evidentiary hearing.

On January 10, 2025, the Commission issued a Rescheduled Initial Telephonic Hearing Notice, cancelling the January 22, 2025, hearing and rescheduling the hearing for February 26, 2025. This Notice was served to Mr. Mercaldo using a revised service address.

Also on January 10, 2025, the Commission issued my Prehearing Order in this matter to Mr. Mercaldo's revised service address.

On January 21, 2025, the Commission received a letter from Mr. Mercaldo, wherein he referenced the prior letters that he sent to the Commission and stated that he has still not received any correspondence from the Commission concerning his case. This letter was not dated.

On February 26, 2025, the evidentiary hearing was held as scheduled. Mr. Mercaldo appeared for the hearing and presented testimony in support of his Complaint. William Lesser, Esquire, appeared on behalf of Securus and presented the testimony of Camesha Davis, a regulatory compliance analyst employed by Securus. Tr. 23-24. The following three exhibits were admitted into the record:

- Securus Exhibit 1 – Answer to Complaint
- Securus Exhibit 2 – Call Detail Report
- Securus Exhibit 3 – Phone Block

Mr. Mercaldo was given the opportunity to submit late-filed exhibits following the conclusion of the hearing. Tr. 56-58.

On March 5, 2025, Securus filed a letter with the Commission addressing a question raised by Mr. Mercaldo during the hearing of whether Mr. Radons could reach out directly to Securus by letter to request that the phone block be removed.

On March 11, 2025, a 61-page electronic transcript of the evidentiary hearing was filed with the Commission.

On March 21, 2025, I forwarded the late-filed exhibits that I received from Mr. Mercaldo to Securus. On that same date, the Commission issued my Order Regarding Submission of Late-Filed Exhibits. The Order explained that Securus had until April 4, 2025, to submit any objections to the late-filed exhibits.

On April 4, 2025, Securus filed its Objection to late-filed exhibits.

On April 11, 2025, the Commission issued my Order Denying the Admission of Late-Filed Exhibits and Closing the Record.

This matter is ready for resolution. For the reasons discussed below, the Complaint will be dismissed.

FINDINGS OF FACT

1. Complainant is Richard Mercaldo.

2. Respondent is Securus Technologies, LLC.
3. Mr. Mercaldo is an inmate at SCI Coal Township. Tr. 25.
4. Securus is the provider of telephone service for incarcerated individuals, their family, and friends, from the correctional system facility in the Commonwealth of Pennsylvania, including the Pennsylvania Department of Corrections. Tr. 25.
5. Securus provides service to the facility where Mr. Mercaldo is an inmate, SCI Coal Township. Tr. 25.
6. Mr. Mercaldo has a prepaid telephone account with Securus. Tr. 26.
7. Mr. Mercaldo was last able to successfully call the home landline phone number of Frank Radons using his Securus prepaid telephone account on May 16, 2024. Tr. 20, 29.
8. From June 23, 2024, onwards, Mr. Mercaldo has been unable to call Mr. Radons's home landline phone number. Tr. 20.
9. When Mr. Mercaldo attempts to call Mr. Radons's home landline phone number, he receives a prompt indicating that the number is restricted, and the call does not go through. Tr. 17, 19.
10. Callers using a Securus prepaid telephone account receive a restricted prompt when attempting to call a phone number when the caller's number has been blocked. Tr. 30.

11. Any person who receives a call from an institution that Securus serves is able to call Securus to request that their phone number be blocked for a specific inmate. Tr. 38.

12. Securus does not request a reason or background information when one requests a phone block. Tr. 39.

13. Mr. Radons called Securus to request that his phone number be blocked from Mr. Mercaldo. Tr. 41-42; Securus Exhibit 3.

14. Securus does not create a phone block unless it is requested. Tr. 40.

15. A phone block is active until the owner of the phone number requests that it be removed. Tr. 40.

16. Securus will not remove the phone block instituted by Mr. Radons at the request of Mr. Mercaldo. Tr. 44.

DISCUSSION

Legal Standards

General Burden of Proof

The Public Utility Code (“Code”) places the burden of proof upon the proponent of a rule or order. 66 Pa.C.S. § 332(a). As the proponent of a rule or order, Complainant has the burden of proof in this matter. *Id.*

To establish a sufficient case and satisfy the burden of proof, the Complainant must show that Respondent is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.

Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. 2 Pa.C.S. § 704; *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied her burden of proof. The Complainant would be required to provide additional evidence to rebut the evidence of the Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

Unreasonable service

Section 1501 of the Code, provides, in pertinent part, that a public utility has a duty to maintain “adequate, efficient, safe, and reasonable service and facilities” and to make “repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.” 66 Pa.C.S. § 1501. The term “service” is defined broadly under Section 102 of the Code to include any and all acts done or rendered or performed and any and all things furnished or supplied and any and all facilities, used, furnished or supplied by public utilities. 66 Pa.C.S. § 102.

Analysis

In this matter, Mr. Mercaldo claims that he is unable to use his Securus prepaid telephone account to call Mr. Radons, who lives in Germany. Mr. Mercaldo testified that he was last able to call the home landline phone number of Mr. Radons on May 16, 2024. Tr. 20. Mr. Mercaldo next attempted to call Mr. Radons on June 23, 2024. Tr. 20. When attempting to call Mr. Radons from that point onwards, Mr. Mercaldo would receive a prompt indicating that Mr. Radons’s number is restricted, and his call would not go through. Tr. 17, 19, 20. For relief in this proceeding Mr. Mercaldo requested that the Commission order Securus to “correct problems and recompense for communication lost and complete and total lack of unavailable remedies.” Complaint 5.

Securus witness Cameshia Davis testified that Mr. Mercaldo receives a restricted prompt when he attempts to call Mr. Radons because Mr. Radons instituted a block on Mr. Mercaldo's number. Tr. 30. The block was created after Mr. Radons contacted Securus to request that his phone number be blocked from Mr. Mercaldo. Tr. 41-42; Securus Exhibit 3. Securus did not ask Mr. Radons to provide a reason or background information when he asked for the phone block. Tr. 39. Ms. Davis further testified that the phone block will remain active until Mr. Radons requests that it be removed, and that Securus will not remove the block at Mr. Mercaldo's request. Tr. 40, 44.

I find that Mr. Mercaldo has failed to demonstrate that Securus has violated the Code, or a regulation or order of the Commission regarding the service provided to him. The record evidence shows that Mr. Mercaldo is unable to call Mr. Radons's home landline phone through his Securus prepaid phone account. However, Securus provided credible evidence that the reason Mr. Mercaldo is unable to call Mr. Radons is because Mr. Radons contacted Securus and requested that Mr. Mercaldo be blocked from calling his phone number. Mr. Mercaldo did not present evidence to rebut the evidence presented by Securus. I find it reasonable that Securus blocked calls from a state correctional institutional inmate to someone who requested that this particular inmate's calls be blocked. Thus, I find that Securus did not violate the Code, specifically Section 1501 of the Code, or a regulation or order of the Commission in instituting a phone block on Mr. Radons's phone number at his request.

Lastly, regarding Mr. Mercaldo's request for monetary damages in this proceeding, it is well settled law that the Commission is not authorized to grant monetary damages. *Elkin v. Bell*, 420 A.2d 371 (Pa. 1980); *Loma, Inc. v. Pa. Publ. Util. Comm'n*, 682 A.2d 425 (Pa. Cmwlt. 1996). If Mr. Mercaldo wishes to pursue this claim, he must do so before the appropriate civil court.

In conclusion, because Mr. Mercaldo failed to demonstrate that Securus has violated the Code, or a regulation or order of the Commission, he failed to satisfy his burden of proof in this proceeding. Therefore, the Complaint will be dismissed in the Ordering paragraphs below.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.

2. The burden of proof in this proceeding is on Complainant. 66 Pa.C.S. § 332(a).

3. To establish a sufficient case and satisfy the burden of proof, the Complainant must show that Respondent is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). The offense must be a violation of the Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.

4. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. 2 Pa.C.S. § 704; *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlt. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlt. 1993).

5. The Commission is not authorized to grant monetary damages. *Elkin v. Bell*, 420 A.2d 371 (Pa. 1980); *Loma, Inc. v. Pa. Publ. Util. Comm'n*, 682 A.2d 425 (Pa. Cmwlt. 1996).

6. Section 1501 of the Code, provides, in pertinent part, that a public utility has a duty to maintain “adequate, efficient, safe, and reasonable service and facilities” and to make “repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.” 66 Pa.C.S. § 1501.

7. The term “service” is defined broadly under Section 102 of the Code to include any and all acts done or rendered or performed and any and all things furnished or supplied and any and all facilities, used, furnished or supplied by public utilities. 66 Pa.C.S. § 102.

8. Mr. Mercaldo has failed to satisfy his burden of proof to demonstrate that Securus has violated the Code, or a regulation or order of the Commission regarding the service provided to him. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Richard Mercaldo in the matter of Richard Mercaldo v. Securus Technologies, LLC, Docket No. C-2024-3051564, is dismissed.

