



ALAN WILSON
ATTORNEY GENERAL

2024-2025

Bryan P. Stirling
Director
South Carolina Department of Corrections
PO Box 21787
Columbia, SC 29210

Dear Director Stirling:

We received your letter requesting an Attorney General's opinion regarding rates for inmate calling services and collection of a surcharge pursuant to Budget Proviso 65.25 under the 2024-

[REDACTED]

The Federal Communications Commission (FCC) recently passed a rule that limits how much state prisons and local detention centers can charge inmates for making

[REDACTED]

prison facilities. SCDC believes it should be able to continue to collect this fee under the mandatory taxes and fees definition of the new rule.

You ask us to opine whether your interpretation of the definition of mandatory taxes and fees is

[REDACTED]

correct.

Law/Anal sis

Budget Proviso 65.25 provides:

(CORR: Cell Phone Interdiction) An inmate under the jurisdiction of [SCDC] is not permitted to possess a telecommunications device unless authorized by the Director. Therefore, the Director of [SCDC] is granted the right to add a surcharge to all inmate pay phone calls to offset the cost of equipment and operations of cell phone interdiction measures. The surcharge will be added to the cost per call, collected by chosen telephone vendor and paid to [SCDC] on a monthly basis. [SCDC] is authorized to retain the funds to pay, either directly or through the State lease program, for equipment required to enact cell phone interdiction measures.

Bryan P. Stirling
Page 3
October 24, 2024

The Act “amend[s] the Communications Act of 1934³ to require the [FCC] to ensure just and reasonable charges for telephone and advanced communications services in correctional and detention facilities.” Pub. L. 117-229, 126 Stat. 6156 (2022). Title 47, U.S.C. § 154.11(a)(1).

[REDACTED]

[A]ny charge to Consumers^[6] associated with the provision or use of [IPCS] that is not:

(1) Included in the per-minute charges assessed, in accordance with §§ 64.6010 and 64.6030, for individual [IPCS];

(2) Included in the charges assessed, in accordance with §§ 64.6010 and 64.6030, for individual [IPCS];

[REDACTED]

we reiterate that it is misleading “for carriers to state or imply that a charge is

[REDACTED]

Id.

[REDACTED]

With respect to safety and security measures, the FCC “ensure[s] that IPCS consumers do not bear the costs of those safety and security measures that are not necessary to provide IPCS regardless of how desirable th[ose] measures may be to correctional institutions.” *Id.* at 77253. It notes, “section 3(b)(2) of the Act requires that [the FCC] ‘consider costs associated with any safety and security measures necessary to provide’ IPCS in promulgating and implementing rules and in

[REDACTED]

Our actions in this Order do not prohibit any correctional institution from implementing any safety and security measure that it deems appropriate or desirable. We do, however, ensure that IPCS consumers do not bear the costs of

[REDACTED]

Bryan P. Stirling
Page 7
October 24, 2024

unreasonable inmate calling services rates and charges. Given the history of inflated inmate calling services charges, there can be no assurance of

[REDACTED]

[REDACTED]

Bryan P. Stirling
Page 8
October 24, 2024

Sincerely,



Elizabeth McCann
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General