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March 18, 2009

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**PUBLIC SERVICE
COMMISSION**

VIA HAND DELIVERY

Jeff Derouen, Executive Director
Kentucky Public Service Commission
211 Sower Blvd
P.O. Box 615
Frankfort, KY 40602-0615

**Re: *Elberta Jones v. Correctional Billing Services, and Eastern Kentucky
Correctional Complex, Case No. 2008-00565***

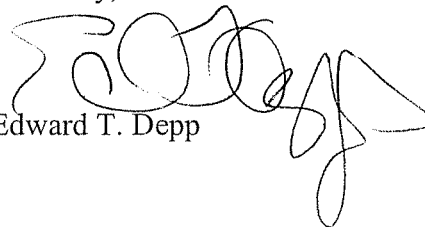
Dear Mr. Derouen:

I have enclosed for filing in the above-styled case the original and eleven (11) copies of Evercom Systems, Inc.'s Petition for Confidential Treatment of Certain Information Contained in Response to Complaint of Ms. Elberta Jones. Please file-stamp one copy and return it to our delivery person.

Thank you, and if you have any questions, please call us.

Sincerely,

Edward T. Depp



ETD/lb

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990-1962

1400 PNC Plaza, 500 West Jefferson Street Louisville, KY 40202
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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:)	
)	
ELBERTA JONES,)	
)	
Complainant,)	
)	
v.)	Case No. 2008-00565
)	
CORRECTIONAL BILLING SERVICES,)	
)	
and)	
)	
EASTERN KENTUCKY CORRECTIONAL)	
COMPLEX,)	
)	
Defendants.)	

**PETITION FOR CONFIDENTIAL TREATMENT OF CERTAIN INFORMATION
CONTAINED IN RESPONSE TO COMPLAINT OF MS. ELBERTA JONES**

Evercom Systems, Inc. (“Evercom”),¹ by counsel and pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(a) and 61.878(1)(k), moves the Public Service Commission of the Commonwealth of Kentucky (the “Commission”) to accord confidential treatment to the federally protected information (the “Information”) contained in the letter response from Evercom, which included a 14-page attachment, filed on or around January 19, 2009 (“Letter Response”) in the above-captioned case.² In support of this Petition, Evercom states as follows.

¹ “Correctional Billing Services” (or “CBS”) as named in Ms. Jones’s Complaint is not an individual or corporate entity. CBS is a division of Evercom Systems, Inc. who has responded to the Complaint. As such, Evercom is the appropriate petitioner here.

² Pursuant to 807 KAR 5:001 §7(2)(a)(2), a copy of the Information, highlighted in yellow transparent ink, is attached to the original (only) of this motion. Also filed herewith are copies of these documents that are redacted to conceal confidential information that may be put into the public file. Please note that the attachment to the Letter Response consists entirely of confidential material, described further herein, and thus is almost entirely redacted.

I. Applicable Law.

807 KAR 5:001 §7(2) sets forth a procedure by which certain information filed with the Commission may be treated as confidential. Specifically, the party seeking confidential treatment of certain information must “[set] forth specific grounds pursuant to KRS 61.870 et seq., the Kentucky Open Records Act, upon which the commission should classify that material as confidential.” 807 KAR 5:001 §7(2)(a)(1).

The Kentucky Open Records Act, KRS 61.870 *et seq.*, exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878 provides as follows:

- (1) The following public records are excluded from the application of [the Open Records Act] and shall be subject to inspection only upon order of a court of competent jurisdiction:
 - (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;
 - ...
 - (k) All public records or information the disclosure of which is prohibited by federal law or regulation[.]

Id.

Another statute that applies here is the federal statute protecting Customer Proprietary Network Information, or “CPNI,” from disclosure. Section 222 of the Communications Act of 1934, as amended, prohibits telecommunications carriers from disclosing information about their customers that they obtain by virtue of providing them with telecommunications service. 47 U.S.C § 222(c). Congress has defined CPNI as “information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service

subscribed to by any customer of a telecommunications carrier,” and “information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier.” *Id.* § 222(f)(1).

II. The Information Should Be Classified Confidential.

Read in conjunction, 807 KAR 5:001 §7(2)(a)(1) and KRS 61.878(1)(a) and (k) provide that the Commission may classify the Information as confidential if the open disclosure of the Information to the general public “would constitute a clearly unwarranted invasion of personal privacy” or would be “prohibited by federal law or regulation[.]” *See* KRS 61.878(1)(a) and (k). The Information sought to be classified in this case is CPNI which is federally protected by statute from disclosure, and as such it can also be that presumed disclosure of the Information to the general public would “constitute a clearly unwarranted invasion of personal privacy” to release. KRS 61.878(1)(a). Further, release of this Information would improperly disclose Ms. Jones’s CPNI which may violate 47 U.S.C. § 222 and thus warrants confidential treatment here. KRS 61.878(1)(k). Accordingly, the Information should be classified as confidential.

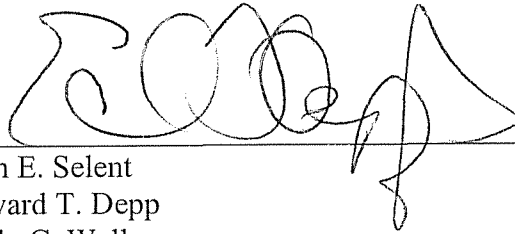
In the Letter Response, and particularly the attachment thereto that identifies telephone calls that Ms. Jones received, Evercom includes many items of Information that constitute the protected CPNI of Ms. Jones.³ This Information consists of the amounts billed to Ms. Jones for service, the amounts that Evercom credited to Ms. Jones’s account, and information regarding the dates and times of the phone calls that Ms. Jones received. In addition, the Letter Response includes the number of the maintenance ticket that was opened as a result of Ms. Jones’s Complaint — this ticket number would enable any person to call Evercom and obtain, together with the data already in the public record in this case, CPNI data regarding Ms. Jones’s account.

³ Please note that some information which otherwise may warrant protection, such as Ms. Jones’s telephone number, was actually already disclosed by Ms. Jones in her public Complaint and thus she has voluntarily waived her rights under 47 U.S.C. § 222.

This Information therefore falls squarely within the category of protected CPNI or enables the public to obtain CPNI. Pursuant to 47 U.S.C. § 222 and 807 KAR 5:001 §7(2)(a)(1), Evercom requests that the Information be treated as confidential.

For these reasons, the Commission should classify the Information as confidential pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(a) and (k), and accordingly prevent the public disclosure of the Information.

Respectfully submitted,



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Counsel to Evercom Systems, Inc.

- and -

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Washington, D.C. 20005
(202) 857-4534 (tel.)
(202) 261-0044 (fax)

Of Counsel


CERTIFICATE OF SERVICE

I hereby certify a true and accurate copy of the foregoing was served on the following, via First Class Mail, on this 18th day of March, 2009.

Elberta Jones
3437 Newburg Rd., Apt. 3
Louisville, KY 40218
Pro Se Complainant

Kentucky Dept. of Corrections
Office of the General Counsel
275 East Main Street
P.O. Box 2400
Frankfort, KY 40602

Office of the Attorney General
Utility and Rate Intervention Division
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601



Counsel to Evercom Systems, Inc

CONFIDENTIAL - This document may contain Customer Proprietary Network Information (CPNI)

January 19, 2009

Kentucky Public Service Commission
Attn: Tiffany J. Bowman
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Complaint of Ms. Elberta Jones

VIA EMAIL: TiffanyJ.Bowman@ky.gov

Dear Ms. Bowman:

This letter is in response to the complaint filed by Ms. Elberta Jones concerning collect calls from the following confinement facilities: [REDACTED] ("[REDACTED]") [REDACTED] located in [REDACTED]; [REDACTED] located in [REDACTED]; the [REDACTED] in [REDACTED], and the [REDACTED] located in [REDACTED]. Evercom Systems, Inc. ("Evercom") is the inmate telephone service provider that handles the inmate collect calls for the aforementioned confinement facilities. Correctional Billing Services ("CBS"), a division of Evercom, provides the billing and customer care services.

Evercom received the complaint filed by Ms. Jones from the Kentucky Public Service Commission ("KY PSC") on January 14, 2009 regarding the following alleged issues: over charging for inmate phone calls operated by [REDACTED], prematurely disconnected calls, and credit request. In the complaint, Ms. Jones references on October 16, 2008 she contacted CBS via correspondence and telephone to request a copy of her billing statement reflecting payments remitted to CBS. At that time, she states CBS refused to provide her with the requested information. According to our records, Ms. Jones requested a copy of an invoice on October 17, 2008. In response to her request, a CBS representative generated ticket number [REDACTED] to have call records forwarded to Ms. Jones within seven (7) to ten (10) business days from October 17, 2008. The call records would have been forwarded to the billing address shown on Ms. Jones' account. Further, she mentions in her correspondence according to her personal records and bank statements she has remitted payments totaling in the amount of [REDACTED] to CBS since April 2008. Our customer records indicate no inmate calls were received in April 2008 at telephone number [REDACTED] the account in question. Our records show that inmate calls were received starting May 4, 2008 at telephone number [REDACTED]. Collect call charges incurred between May 4, 2008 and December 26, 2008, associated with Ms. Jones' prepaid account totaled [REDACTED].

Ms. Jones expressed concerns about being over charged for rates associated with the [REDACTED] facilities and desires credit for all collect call charges. She makes reference to Order No. 378, stating "no set" use fees can be assessed against inmate calls. Ms. Jones has quoted an outdated rate requirement. As an Inmate Service Provider, Evercom is a "non-basic" provider under the rules of HB 337. The non-basis designation for Inmate Providers was confirmed by the KY PSC Staff in October 2006. Therefore, Evercom is applying rates as permitted by KY PSC Rules, HB 337, and as required by Evercom's contract with the [REDACTED].

For Ms. Jones' records, the calls from the [REDACTED] in [REDACTED] to Ms. Jones' telephone number are classified as "IntraLATA" calls and the rates are as follows:

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KY DOC Little Sandy Correctional Complex

Operator Service Charge \$1.50 (per call)
Usage Charge \$0.20 (initial minute)

For a 15 minute call the charge would be \$4.50 plus applicable taxes and fees.

The calls from the [REDACTED] in [REDACTED] to Ms. Jones' telephone number are classified as "IntraLATA" calls and the rates are as follows:

KY DOC Lee Adjustment Center

Operator Service Charge \$1.50 (per call)
Usage Charge \$0.20 (initial minute)

For a 15 minute call the charge would be \$4.50 plus applicable taxes and fees.

The calls from the [REDACTED] located in [REDACTED] to Ms. Jones' telephone number are classified as "IntraLATA" calls and the rates are as follows:

KY DOC Eastern Kentucky Correctional Complex

Operator Service Charge \$1.50 (per call)
Usage Charge \$0.20 (initial minute)

For a 15 minute call the charge would be \$4.50 plus applicable taxes and fees.

The calls from the [REDACTED] located in [REDACTED] to Ms. Jones' telephone number are classified as "Local" calls and the rates are as follows:

Jefferson County Metro Corrections Center

Operator Service Charge \$1.85 (per call)

For a 15 minute call the charge would be \$1.85 plus applicable taxes and fees.

Attached for the Commission's review is a copy of Ms. Jones' call history for the period referenced in her complaint. An analysis of Ms. Jones' call records indicates she has been billed correctly according to the above-noted rates.

Ms. Jones states that she has experienced premature call disconnections in relation to collect calls from the facilities in question. She further lists the following four (4) collect calls as specific examples of premature disconnections: [REDACTED] which she states was approximately [REDACTED] in duration; [REDACTED] which she states was approximately [REDACTED] in duration; [REDACTED] which she states was approximately [REDACTED] in duration; and, [REDACTED] which she states was approximately [REDACTED] in duration. A review of Ms. Jones' call history (attached) shows: [REDACTED]

[REDACTED]

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[REDACTED] Our records further indicate Ms. Jones has received credits totaling [REDACTED] between July 6, 2008 and December 22, 2008 for collect calls she disputed as premature disconnections, including a credit adjustment on December 9, 2008 for the above-referenced [REDACTED]
[REDACTED]

While our records do not indicate that the collect calls listed above were premature disconnections, as a courtesy, Evercom has issued an adjustment totaling [REDACTED] for the [REDACTED]
[REDACTED]

[REDACTED] Ms. Jones should be aware that the credits were issued and posted to her prepay account.

To further assist its customers and to assure quality service, Evercom has implemented a new policy when customers' dispute short duration calls which entails a thorough investigation of disputed collect calls described as premature disconnections. If a customer is disputing calls that exceed one (1) minute in duration, we ask they submit a short call form referencing the call dates and times and other relevant information that will allow us to conduct a thorough and optimal investigation. Upon completion of the investigation, Evercom will be able to determine if appropriate credits should be issued. The short call dispute form is accessible via the CBS website at www.correctionalbillingservices.com and should be returned via facsimile at (972) 277-0714 or via First Class U.S. Mail attention to CBS, P.O. Box 1109, Addison, Texas 75001.

Ms. Jones also references charges totaling [REDACTED] for calls she claims she did not receive; however, she does not provide call dates and times needed for an investigation. We request Ms. Jones contact us with this information so we may investigate these concerns.

If there are any further questions regarding this complaint, please contact me at (972) 277-0300.

Sincerely,

Cameshia Davis
Regulatory Complaints Analyst

SECURUS TECHNOLOGIES

BILLED CDR REPORT

Customer Information

BTN: ██████████

Account ID: XXXXXXX

Name: ELBERTA JONES

Calls Totals

Total Minutes XXXX

Total Cost XXXX.XX

Total Tax XXX.XX

Total Amount XXXX.XX

Call Details

Call Date	Call Time	Orig. ANI	Org. City	Org. State	Term. ANI	Term. City	Term. State	Minutes	Charge	Tax	Total	Invoice Date
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