



Federal Communications Commission
Washington, D.C. 20554

September 11, 2018

DA 18-939

Via Electronic Mail

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Re: *Securus Technologies Inc., and Inmate Calling Solutions, LLC, Consolidated Applications for Consent to the Transfer of Control of Licenses and Authorizations (WC Docket No. 18-193)*

Dear Counsel:

On July 2, 2018, TKC Holdings, Inc. (TKC), Inmate Calling Solutions, LLC d/b/a ICSolutions (ICS), and Securus Technologies, Inc. (Securus) (together, Applicants) filed a joint application requesting Commission approval to transfer control of ICS to Securus (the Application).¹ To permit the Commission to review the Application and to conduct its public interest analysis of the proposed transaction, we require additional information.

Accordingly, pursuant to sections 214 and 308(b) of the Act, 47 U.S.C. §§ 214, 308(b), we request that you provide written responses and supporting documentation for each Information Request set forth in the attached Information and Document Requests² and, where appropriate, amend the Application to reflect such responses. In order to expedite consideration of your Application, please respond to the attached Information Requests by **September 25, 2018**.

Submit responses to these Information Requests in both paper and electronic form, unless only electronic form is specified. Submit responsive documents in electronic form only, unless otherwise specified. Submit data provided in response to these Information Requests in a machine-readable format (e.g., .csv file) and include a complete data dictionary for each, that is, a list of all variable names, variable characteristics. Separately, provide any assumptions on which the data are based. Your responses should be filed with Marlene H. Dortch, Secretary, Federal Communications Commission, under WC Docket No. 18-193. We also request that you provide Dennis Johnson,

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.04, 63.24. Joint Application of TKC Holdings, Inc, Inmate Calling Solutions, LLC d/b/a ICSolutions, and Securus Technologies, Inc. for Grant of Authority Pursuant to Section 214 of the Communications Act, as Amended, WC Docket No. 18-193, IB File No. ITC-T/C-20180612-00109 (filed June 12, 2018) (Application).

² See also the definitions and instructions for responding to the Information Requests, as set forth in the attachment to the requests.

dennis.johnson@fcc.gov, Michael Ray, michael.ray@fcc.gov, and Douglas Galbi, douglas.galbi@fcc.gov, with one copy of all paper and electronic materials filed in response to the Information Requests, except for any materials filed pursuant to the Protective Order issued in this proceeding.³

If you have any questions regarding this matter, please contact Michael Ray at (202) 418-0357.

Sincerely,

Lisa Hone
Deputy Chief
Wireline Competition Bureau

Attachment

³ If you submit information pursuant to the Protective Order issued in this proceeding, then please follow the filing procedures specified therein. *TKC Holdings, Inc., Inmate Calling Solutions, LLC d/b/a ICSolutions, Securus Technologies, Inc. Consolidated Applications for Consent to Transfer Control of Domestic and International Authorizations Pursuant to Section 214 of the Communications Act of 1934, As Amended*, Protective Order, DA 18-938 (WCB 2018).

ATTACHMENT A
INFORMATION AND DOCUMENT REQUESTS

Personnel

1. Submit one copy of organization charts and personnel directories for each of the past two years for each Applicant as a whole and for each of the Applicants' facilities or divisions involved in any activity relating to any Relevant Service, including:
 - a. a list of persons responsible for establishing policies, practices, and procedures, for pricing, commissions, sales/marketing, discounting, introduction of new products/features, research and development, and a brief description of role and responsibility; and
 - b. a list of persons responsible for negotiating the Transaction, analyzing the Transaction, recommending the Transaction be approved; approving the Transaction, and integration planning, and a brief description of role and responsibility.

Hart-Scott-Rodino Premerger Notification Items 4(c) and 4(d)

2. Provide one copy of each document each Applicant submitted in response to Items 4(c) and 4(d) of the Notification and Report Form filed consistent with the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and section 803.1(a) of the premerger notification rules, 16 CFR Parts 801-803.

Products & Facilities

3. List each Relevant Service sold by each of the Applicants, and for each Relevant Service describe separately for each Applicant any identifying information such as brand name and end-users or user group (e.g., inmates, correctional staff). Identify, describe and provide all documents related to how the Transaction will affect the combined company's plans and offerings for each Relevant Service, including any steps the combined company will take post-Transaction to change existing service offers and/or terms and conditions to Facility Customers.
4. Describe the inmate telecommunications services provided by each of the Applicants and whether the services are facilities-based or resold services. If resold, identify the underlying facilities-based carrier or carriers.

Customers & Sales

5. List and describe each contract that each Applicant has with a Facility Customer to provide a Relevant Service. State the date at which the contract went into effect, contract renewal or extension dates, terms of renewals or extensions that have gone into effect, and terms for future renewals or extensions.
6. For each Facility Customer, state separately for each Applicant and for each of the last five years and separately for each facility operated by the Facility Customer and for each contract between an Applicant and the Facility Customer:
 - a. the address of each facility;
 - b. total average daily populations (ADP) of inmates;
 - c. total quantities of each Relevant Service, including the number of phone calls and number of phone minutes purchased by inmates in the custody of the facility;
 - d. total revenues earned from inmates in the custody of the Facility Customer broken down by each Relevant Service and type of fee or charge as applicable;

- e. total revenues earned from the Facility Customer, broken down separately by each Relevant Service;
- f. total revenues earned from parties communicating with inmates in the custody of the Facility Customer broken down by each Relevant Service and type of fee or charge as applicable;
- g. total commissions paid to the Facility Customer broken down separately by each Relevant Service and the type of payment as applicable;
- h. total other expenditures by each Applicant relating to the provision of any Relevant Services to the Facility Customer or the inmates in the custody of the Facility Customer broken down by (A) the total expenditures related to the provision of each Relevant Service or component thereof, and (B) the type of expenditure as applicable including without limitation:
 - 1. upfront costs incurred by each Applicant at the start of the contract term (e.g., cost of new or replacement equipment; equipment installation cost; cost of customizing or installing software; labor costs; wiring cost; cost of arrangements with local telephone companies or internet service providers; cost of obtaining or expanding call or data processing facilities or storage server capacity; etc.); and
 - 2. ongoing costs incurred by each Applicant during the contract term; and
- i. whether each Applicant provides any dedicated or local personnel to serve the facilities operated by the Facility Customer, and if so, state separately for the Applicant:
 - 1. the number of personnel, their titles, and the number of facilities;
 - 2. whether the personnel are dedicated to the facility;
 - 3. whether the personnel are local on site or off-site; and
 - 4. total cost to each Applicant of providing the personnel.
- 7. For each Relevant Service, identify, describe and provide documents sufficient to show the extent to which each Applicant has altered its pricing strategies since January 1, 2013 as to actual or potential Facility Customers and as to inmates.

Competitors & Entry

- 8. Describe and provide all documents relating to any allegation that either Applicant, its employees, or any of its current or potential competitors have behaved or are behaving in an anticompetitive manner or a manner that is alleged to violate any provision of the Communications Act of 1934, as amended, or any Federal Communications Commission rule or order, including but not limited to allegations by any calling or called party, inmate, Facility Customer, and competitor complaints; threatened, pending, or completed lawsuits; or federal or state investigations, excluding any investigations by the Federal Communications Commission.
- 9. List the names of each of the Applicants' competitors for the provision of any Relevant Service in the last five years, and for each such competitor, submit all documents relating to that competitor's efforts to compete in the provision of each Relevant Service, including:
 - a. facilities to be served;
 - b. products or services to be supplied, including features or quality, and new services;
 - c. pricing, including inmate prices and commissions, and including discounts or rebates;

- d. sales;
 - e. requests for proposals (RFPs) or bids;
 - f. sales call reports or win/loss reports;
 - g. features or quality;
 - h. offering additional products and services to purchasers of any Relevant Service;
 - i. expansion plans;
 - j. research and development;
 - k. plans to introduce a new Relevant Service;
 - l. plans to exit (or actual exit of) the provision of any Relevant Service;
 - m. market shares; and
 - n. relative strengths and weaknesses.
10. For each competitor listed in response to Information Request 9, identify and provide documents sufficient to show any relationship between either Applicant and such competitor, including without limitation (a) identifying whether and to what extent each Applicant owns, controls, or is an affiliate of that competitor or any direct or indirect parent thereof and (b) providing any agreements between either of the Applicants and such competitor. Identify and provide documents sufficient to show any relationship between either of the Applicants and CenturyLink, including without limitation providing any agreements between either of the Applicants and CenturyLink.
 11. List the names of each person that has plans to enter or expand output of, has entered or expanded output of, or has attempted to enter or expand output of the provision of any Relevant Service in the last five years, and for each such plan, entry, expansion, or attempt:
 - a. describe the plan, entry, or attempt, including identifying the Relevant Service; and
 - b. describe the Applicants' estimate of costs and times to enter, steps necessary to entry, and entry barriers (including any necessary regulatory approvals and the minimum viable scale required for entry).
 12. Applicants assert that "there are no obstacles (technological, IP-related, reputational, cost) preventing [competitors] from quickly scaling to bid and win opportunities of every size." (Joint Opposition to Petition to Deny at 19). Applicants further assert that "there are no barriers (either with respect to STI or ICS) that would make it more difficult for various competitors of ICS from bidding successfully for ICS opportunities." (Consolidated Joint Reply Comments at 6). Identify and provide all documents that support or refute the statements. Identify and describe in detail and provide all documents related to whether the location of an actual or potential Facility Customer may represent an obstacle to the provision of service by a competitor (e.g., rural or remote location).
 13. Applicants assert that "historical market shares of the parties in a contestable bidding market are not a relevant predictor of future competitive outcomes." (Joint Opposition to Petition to Deny at 17). Identify, describe, and provide documents sufficient to show the analytic factors each Applicant uses to measure its own ability, and the ability of competitors, to compete for customers for the provision of Relevant Services.
 14. Applicants state that "[t]oday, many incumbent competitors besides GTL and STI can -and do-provide ITS to larger correctional facilities, including CenturyLink (which is an independent competitor)." Applicants further state that "CenturyLink's presence in fact does constrain the prices charged by all other bidders." (Joint Opposition to Petition to Deny at 16, 21). Identify all "incumbent competitors" to which this statement is referring

and identify and provide documents sufficient to show that each such entity “provide[s] ITS to larger correctional facilitates.” Provide all documents relating to, discussing, or analyzing CenturyLink, or any other “incumbent competitor” identified in response to this request, as a competitor to the Applicants post-transaction, including any documents relating to whether the incumbent competitor’s presence constrains the prices charged by other bidders.

Transaction & Potential Efficiencies

15. Provide all documents relating to, and describing the reasons for, the Transaction and the costs to complete it; all plans and the rationales for any change in the Applicants’ business as a result of the Transaction and the costs to achieve them; and all risks associated with the Transaction.
16. Provide a detailed explanation and identify and provide documents sufficient to show the basis for and derivation of the Applicants’ claimed public interest benefits, efficiencies, and synergies resulting from the proposed Transaction (as set forth in the Public Interest Statement at 3-5 of the Application and Joint Opposition to Petition to Deny at 27-28), and for each explanation provide:
 - a. a summary and provide and identify documents sufficient to show the underlying assumptions and steps the Applicants will take to achieve the claimed cost savings, efficiencies, synergies, and other benefits; the costs Applicants will incur to achieve these effects; the risks the Applicants face in realizing these effects; the breakdown between savings in fixed costs and marginal costs; and the time required to achieve these effects (including whether they are primarily short-term or long-term);
 - b. a summary and provide and identify all documents related to efforts by either Applicant to achieve similar benefits, efficiencies, and synergies without the Transaction; barriers posed to either Applicant achieving similar benefits, efficiencies, and synergies without the Transaction; and reasons the Transaction will enable the claimed benefits, efficiencies, and synergies;
 - c. the Applicants’ plans to pass through any cost savings from the Transaction, including but not limited to inmates, and the extent to which each of the Applicants have passed through past cost savings, including to inmates and their families, from prior transactions (including the magnitude and time horizon for these pass-through cost savings to inmates); and
 - d. a description of the additional products and services the combined company will be able to offer each existing ICSolutions’ Facility Customer because of the Transaction that are currently not offered by ICSolutions. Describe any products and services that Securus will cease offering to each existing ICSolutions Facility Customer as a result of the Transaction.
17. Provide full and complete copies of the Unit Purchase Agreement by and among ICS, TKC, Keefe, and Securus, merger or acquisition agreement (and all amendments and attachments thereto), and any side or letter agreements or other related agreements (and all amendments and attachments thereto) that Applicants have entered into that relate to the Transaction.
18. Describe the timetable for the Transaction, and identify, provide and describe documents sufficient to show:
 - a. all actions that must be taken before its completion, including each domestic regulatory, competition, or antitrust authority that the Applicants have notified (or intend to notify) of the Transaction, and the case numbers as assigned by each entity;

- b. the timing for each such action, including for each authority notified, the dates (or expected dates) the authority was (or is expected to be) notified and did or will complete its review;
- c. any harm that would result if the Transaction is delayed or not completed; and
- d. any terms or conditions of the Transaction that are not reflected in the merger or sale agreement.

Bids

19. Describe each bid, estimate, quote, proposal, or response to any request for information, submission, or proposal (collectively hereinafter, bid) that each of the Applicants drafted, submitted, or participated in as a primary bidder, joint bidder, or subcontractor since January 1, 2013 to supply any Relevant Service, and for each bid list the following in the format specified in the accompanying template:
 - a. issuer and date of the Request for Proposal (RFP);
 - b. date each Applicant submitted the bid;
 - c. if either Applicant ultimately withdrew a bid, state the withdrawal date and the reason for withdrawal;
 - d. the identity of the incumbent provider at the time of the RFP, or state if there was no incumbent provider;
 - e. the total estimated value, in dollars, of the bid, including any recurring or one-time commissions to the actual or potential Facility Customer, or other incentives;
 - f. the initial duration of the contract as described in the RFP, including starting and ending dates;
 - g. the name and address(es) of the Facility Customer covered in the contract, and the address and type of each facility to be served (e.g., jail or prison);
 - h. the average daily number of inmates at all facility address(es) covered by the contract;
 - i. the contract's provisions for possible extensions;
 - j. whether the bid submitted won or was declined, and if won, the estimated value of the bid;
 - k. each Relevant Service provided in the winning bid;
 - l. if an Applicant did not win the bid, the name, if known, of the winning bidder, the ranking of the Applicant or Applicants' bid or bids; and reason for not winning, if known;
 - m. the identities of all other bidders and the ranking of their bids, if known; and
 - n. for each bid described, provide all documents related to the RFP, the completed bid, and all correspondence between the actual and potential Facility Customer and either of the Applicants; and identify in metadata associated with each document to which RFP each document refers.

ATTACHMENT B

DEFINITIONS AND INSTRUCTIONS FOR INFORMATION AND DOCUMENT REQUESTS

Definitions

1. The term “ICSolutions” means Inmate Calling Solutions, Inc. d/b/a ICSolutions and its parents, subsidiaries, and affiliates.
2. The term “Securus” means Securus Technologies, Inc. and its parents, subsidiaries, and affiliates.
3. The term “affiliate” has the meaning given in 47 U.S.C. § 153.
4. The term “agreement” means any understanding, formal or informal, written or unwritten.
5. The term “Applicant” or “Applicants” means each of ICSolutions and Securus and, to the extent applicable, ICSolutions and Securus jointly.
6. The term “ancillary service” means any product or service offered in connection with, bundled with, or related to, any inmate telecommunications service or inmate voice service. Ancillary services include, without limitation, (a) video communications services; (b) tablet or computer services; (c) messaging services; (d) investigative services; (e) commissary or kiosk deposit services and debit release cards; (f) contraband cell phone detection, assessment, or forensic services; and (g) jail management systems, such as inmate booking or processing services.
7. The term “commissions” refers to any amount paid to a Facility Customer related to any Relevant Service or in connection with the execution of an agreement with a customer, including, without limitation, upfront payments, guaranteed payments, technology grants, advance payments, or share of revenue generated under the agreement.
8. The term “CenturyLink” means CenturyLink Public Communications, Inc., and its parents, subsidiaries, and affiliates.
9. The term “documents” means all written, printed, recorded, or electronically stored information of any kind in the possession, custody, or control of the Applicants.
10. The term “documents sufficient to show” means documents sufficient to provide the Commission with a true and correct disclosure of the factual matter requested.
11. The term “Facility Customer” means any correctional or detention facility that purchases or has purchased a Relevant Service from the Applicants.
12. The term “inmate” includes the friends and family of an inmate (or other persons communicating with an inmate or providing funds to an inmate for inmate voice services), and sales of a Relevant Service to such person should be considered sales to an inmate.
13. The term “inmate telecommunications services” means any interstate telecommunications service provided to correctional facilities or inmates.
14. The term “inmate voice service” means any real-time or near-real-time voice communications services provided via any technology to correctional facilities or inmates, *except it excludes* any inmate telecommunications service.
15. The term “plans” includes preliminary proposals, recommendations, or considerations, whether finalized or adopted.

16. The term “Relevant Service” means (a) each inmate telecommunications service; (b) each inmate voice service; (c) each ancillary service offered in connection with, bundled with, or related to an inmate telecommunications service or inmate voice service; and (d) each integrated offering or bundle of services normally sold with (i) one or more inmate telecommunications services or inmate voice services and (ii) one or more ancillary services or other products or services. The term “Relevant Service” excludes services outside of the United States.
17. The term “sales” means net sales, i.e., total sales after deducting discounts, returns, allowances, and excise taxes. “Sales” includes sales of the relevant product whether manufactured by the Applicants, themselves, or purchased from sources outside the Applicants and resold by the Applicants.
18. The term “Transaction” means the proposed transaction contemplated by the Application that, if completed, would result, *inter alia*, in Securus acquiring control of the section 214 (47 U.S.C. § 214) authorizations of ICSolutions and its subsidiaries.

General Instructions

1. Unless otherwise specified, each Information Request that calls for documents requires each Applicant to submit all responsive documents that were created or received by each Applicant on or after January 1, 2013.
2. Where a narrative response is required, identify each document relied upon to support the Applicants’ response in the narrative response.
3. Documents submitted in response to these Information Requests that were or will be submitted both to the Commission and the U.S. Department of Justice (DOJ) must have the same document control numbers and the same metadata, if any, as when originally submitted. Other documents submitted in response to these Information Requests (and that will not also be submitted to the DOJ) must be uniquely and sequentially numbered across the entire production. Each number shall be of a consistent length, include leading zeros in the number, and unique for each produced page. Numbers should contain no more than three segments connected by a hyphen. The leading segment must be the company identifier, a middle segment identifying the custodian, and a sequential page counter with connecting hyphens (e.g., ABCCO-CEO-00000001).
4. Each responsive document shall be submitted in its entirety, even if only a portion of that document is responsive to an Information Request made herein. All written materials necessary to understand any document responsive to these Information Requests also shall be submitted.
5. Documents submitted in PDF format should be optical character recognition (OCR) searchable whenever possible.
6. All data and databases provided in response to these Information Requests must be submitted in a machine- readable format (e.g., .csv file) and include a list of all variable names, variable characteristics, and assumptions on which the data are based. As specified in Information Request No. 19, provide the data in the format specified in the accompanying template.
7. For each document submitted, indicate, by number and subsection, the specific request(s) to which it is responsive. If any document is not dated, then if known, state the date on which it was prepared. If any document does not identify its author(s) or recipient(s), then provide, if known, the name(s) of the author(s) or recipient(s). The Applicants must identify with reasonable specificity all documents provided in response to these Information Requests. Where more than one identical copy of a requested document exists, the Applicants may submit only one representative copy.

8. The specific Information Requests made herein are continuing in nature. The Applicants are required to produce in the future any and all documents and information that are responsive to the Information Requests made herein, but not initially produced. In this regard, the Applicants must supplement their responses (a) if the Applicants learn that, in some material respect, the documents and information initially disclosed were incomplete or incorrect, or (b) if additional responsive documents or information are acquired by or become known to the Applicants after the initial production.
9. Any documents that are withheld in whole or in part from production based on a claim of privilege shall be assigned document control numbers (with unique consecutive numbers for each page of each document). For any page of any document that the Applicants have designated to be withheld as entirely privileged, they shall submit a substitute placeholder page that lists only the Document ID of the page that was withheld in its entirety as privileged and a statement indicating that the page has been withheld in its entirety as privileged. For any document withheld as entirely privileged, it is sufficient to supply one substitute placeholder page for that document, so long as the range of Document IDs for the entire document is listed on the placeholder page and each Document ID for each page of the document is reflected in metadata. The placeholder pages must be imaged as any other paper record, as described above.
10. For each document identified on the privilege log of each Applicant:
 - a. provide the document control number(s);
 - b. identify all authors of the document;
 - c. identify all addressees of the document;
 - d. identify all recipients of the document or of any copies of the document, to the extent not included among the document's addressees;
 - e. provide the date of the document;
 - f. provide a description of the subject matter of the document;
 - g. state the nature or type of the privilege that the Applicant is asserting for the document (e.g., "attorney-client privilege");
 - h. provide the number(s) of the Information Request(s) to which the document is responsive;
 - i. provide the document control number(s) of any attachments to the document, regardless of whether any privilege is being asserted for such attachment(s); and
 - j. state whether the document has been produced in redacted form and include the range of Document ID labels for those produced documents.
11. The Applicants' privilege logs also shall conform with all of the following requirements:
 - a. provide a separate legend identifying each author, addressee, and recipient identified on each Applicants' privilege log;
 - b. identify on the privilege log, and denote with an asterisk, all attorneys acting in a legal capacity with respect to the withheld document or communication;
 - c. the description of the subject matter of each document shall describe the nature of the document in a manner that, though not revealing information that is itself privileged, provides sufficiently detailed information to enable the Commission to assess the applicability of the privilege claimed;
 - d. for each document withheld under a claim that it constitutes or contains attorney work product, also state whether the Applicant asserts that the document was

prepared in anticipation of litigation or for trial and, if so, specify the anticipated litigation or trial upon which the assertion is based;

- e. produce all non-privileged portions of any responsive document (including non-privileged or redactable attachments) for which a claim of privilege is asserted, except where the only non-privileged information in the document has already been produced, and note where any redactions in the document have been made;
- f. the privilege log shall be produced in both hardcopy and electronic form, the electronic form of which shall be both searchable and sortable; and
- g. documents sent solely between counsel, including in-house counsel acting solely in a legal capacity, and documents authored by the Applicant's outside counsel that were not directly or indirectly furnished to any third party, such as internal law firm memoranda, may be omitted from the privilege log. However, any attachments to such documents must be included on the privilege log (if a privilege is applicable to such materials), unless such attachments are addressed and sent solely to counsel.