

## **Pay Tel Ex Parte Presentation**

### **Further Response to Joint Filing of Global Tel\*Link (GTL), Securus, and Telmate<sup>1</sup>**

It's a simple fact: jails and prisons don't make phone calls. Inmates make phone calls. Therefore, from a financial perspective, the size or market share of any ICS vendor is appropriately viewed based on the number of inmates served or the revenue generated by those inmates, taking into consideration the type and size of facilities in which those inmates are incarcerated.

*Why is this important to understand when considering the ICS Vendor Proposal?*

As shown on the following pages, the majority of the inmates served by the proposing vendors are located in Prisons and Mega-Jails (with ADP of 1000+). One need simply "follow the money" to understand why GTL, Securus and Telmate (the companies behind the ICS Vendor Proposal) have put forward the proposal they have which conflates Jail and Prison rate caps into one "blended" cap:

- The \$0.20 per-minute blended rate proposed in the ICS Vendor Proposal is 4-5 times the cost of serving Prisons and Mega-Jails (validated by Securus' own Prison and Mega-Jail costs filed in 2013),<sup>2</sup> and by actual contracts for State DOCs without commissions.<sup>3</sup>
- By allowing this higher rate for Prisons and Mega-Jails, and prohibiting commissions, the FCC would give the vendors serving Prisons and Mega-Jails the opportunity to generate windfall profits in these parts of the market.

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<sup>1</sup> See Letter from Brian D. Oliver, CEO, GTL, Richard A. Smith, CEO, Securus, and Kevin O'Neill, CEO, Telmate, to Chairman Tom Wheeler et al., at 2, WC Docket No. 12-375 (filed Sept. 15, 2014) ("ICS Vendor Proposal").

<sup>2</sup> See generally Expert Report of Stephen E. Siwek on Behalf of Securus, WC Docket No. 12-375 (Mar. 25, 2013). According to the Siwek Report, Securus' cost per-minute to serve the eight state DOCs and also the High-10 Jails, excluding commissions, is \$0.04. Note that the High-10 facilities used in the Siwek Report are very large jails, with an average inmate population of 3,293. See, e.g., Pay Tel, Ex Parte Presentation, "Economic Characteristics of Prisons vs. Jails," at 2-3, WC Docket No. 12-375 (Dec. 9, 2013). Pay Tel acknowledges that Securus has sought to distance itself from this filing due to its "limited" scope (ex parte dated Oct. 28, 2014), but the \$0.04/minute figure was derived from Siwek's review of all Securus's state prison contracts, as well as Securus's highest 10 volume facilities—which is a complete data set for this universe of facilities.

<sup>3</sup> See Pay Tel Ex Parte Presentation, "Response to Joint Filing of Global Tel\*Link (GTL), Securus, and Telmate," at 4, WC Docket No. 12-375 (Oct. 2, 2014) (finding average rate across existing contracts for provision of ICS in eight state DOCS to be just \$0.067 per minute; citing Prison Phone Justice, Prison Phone Rates, *available at* [www.prisonphonejustice.org](http://www.prisonphonejustice.org), as verified by Pay Tel upon review of the ICS contracts for each of the eight states mentioned) ("Pay Tel Response to ICS Vendor Proposal").

- The very parties who initiated this petition long ago (prison inmate families) would receive far less relief than they deserve. They deserve lower rates in Prisons and Mega-Jails—rates that are in accord with the lower costs of providing ICS in those facilities.
- The vendors serving small- to medium-sized Jails (who don't have Prison contracts necessary to subsidize these below-cost clients) would likely be forced out of the market, particularly if the larger companies cross-subsidize between low-cost (Prison) and high-cost (Jail) facilities.

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**The Majority of Inmates Served by GTL, Securus, and Telmate are Incarcerated in Prisons and Mega-Jails**

As shown by Table 1 below,<sup>4</sup> an analysis of the inmates that GTL, Securus, and Telmate serve illustrates why those providers are advocating for unitary rate caps across facilities of all types and sizes. Pay Tel’s analysis of the facilities and inmates served by those providers (and CenturyLink and ICSolutions, the other two dominant vendors) reveals that the majority of the inmates they serve (in the case of GTL and Securus, the overwhelming majority) are housed in either Prisons or Mega-Jails—facilities where costs are well below the ICS Vendor Proposal rate caps. Such inmates make up nearly 91% of the inmates GTL serves; nearly 78% of the inmates Securus serves; and 53% of the inmates Telmate serves. These providers know full well that a unitary rate cap that is benchmarked at or near the cost of providing ICS in Jails will allow for windfall profits arising from the core business—Prisons and Mega-Jails.

Table 1:

**Question: Where are the majority of ICS customers?**

**Answer: Prisons and Mega Jails**

**Percentage of Total Inmates Served by Each Vendor**

*Vendor ADP Percentage by Agencies*

Description	Number of Agencies <sup>1</sup>	CenturyLink	Global Tel*Link	ICSolutions	Securus	Telmate
Prisons & Jails 1000+	51	91.13%	69.5%	48.7% <sup>2</sup>	57.4% <sup>3</sup>	48.0%
	+ 214	+ 6.70%	+ 21.2%	+ 28.1%	+ 20.1%	+ 5.0%
<b>Total</b>	<b>265</b>	<b>97.83%</b>	<b>90.7%</b>	<b>76.8%</b>	<b>77.5%</b>	<b>53.0%</b>
Jails 350-999	330	1.51%	6.2%	15.4%	9.1%	28%
Jails 100-349	665	0.63%	2.7%	6.8%	9.6%	15%
Jails 1-99	828	0.03%	0.4%	1.0%	3.8%	4%

<sup>1</sup> Number of agencies served by CenturyLink, Global Tel\*Link, ICSolutions, Securus, Telmate.

<sup>2</sup> 9.3% Direct Prison Contracts + 39.4% Subcontracted Prisons – ICSolutions provides DOC contract prepaid call processing as a subcontractor for CenturyLink for Alabama DOC, Idaho DOC, Kansas DOC, Nevada DOC representing a total of 54,165 inmates

<sup>3</sup> 33.7% Direct Prison Contracts + 23.7% Subcontracted Prisons – Securus provides DOC contract prepaid call processing as a subcontractor to CenturyLink for the Texas Department of Criminal Justice and Wisconsin DOC - representing a total 172,849 inmates.

<sup>4</sup> The methodology used to develop this analysis is set forth at Attachment 1.

**Adoption of the ICS Vendor Proposal’s Unitary Rate Cap  
Will Lead to Windfall Profits for Vendors Serving Prisons and Mega-Jails**

As noted in the Pay Tel Response to ICS Vendor Proposal, eight states (California, Michigan, Missouri, Nebraska, New Mexico, New York, Rhode Island, and South Carolina) have eliminated site commissions and mandated lower ICS rates in their Prison systems.<sup>5</sup> Pay Tel has created rough projections of the windfall profits that vendors serving the remaining 42 Prison systems would reap if the ICS Vendor Proposal’s \$0.20 per-minute cap is adopted. The numbers are staggering. As set forth in Table 2 below, using \$0.04-\$0.06 per-minute costs as a proxy for the true cost of service in Prisons,<sup>6</sup> Pay Tel projects that the largest ICS vendors would realize profits of some \$301-\$344 million per year from their provision of ICS in Prisons alone—a 300%-500% markup over their costs. And that doesn’t even begin to include profits realized from provision of ICS in Mega-Jails or from the proposed allowable fees.

Table 2:

**Windfall Profits for ICS Vendors Serving Prisons**

- ▶ **Regulators eliminated commissions and mandated lower rates in Eight State Prison Systems**
  
- ▶ **Profit projections for remaining forty-two state Prison Systems**
  - **Forty-two Prison Systems with Average Daily Population of ~890,000 inmates**
  - **Projected Minutes of Use per Year per Inmate: 2,415\***
  - **Estimated Annual Revenue @ \$.20 per minute (excluding fees) = \$430 Million**
  - **Projected profit based on average cost of \$.04-\$.06/ min.**
    - **300-500% markup over cost**
    - **\$301-\$344 million profit per year**

*\*Based on representative example from Nevada DOC’s recent RFP for Inmate Telephone Service (average rate of \$.21/minute)*

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<sup>5</sup> These states are.

<sup>6</sup> See note 2 above.

**The Larger Providers Will Not Provide Service Where They Cannot Cover Costs**

The windfall profits accruing to GTL, Securus and Telmate under their proposal are exacerbated by the reality that they will simply cease serving Jails where they cannot cover their costs. Again, the public cost data submitted by Securus’ in its Siwek Report show a weighted average cost per-minute of \$0.31 for its small- (“Low 10”) and medium-sized (“Medium 10”) jails (excluding commissions)—facilities containing anywhere from a handful up to 231 inmates. Yet GTL, Securus and Telmate have proposed a blended rate that will not cover the weighted average costs of serving these facilities. Nearly 80% of all jails have an ADP of less than 250<sup>7</sup> and fall right within this category of Jails. Such costs are of little concern to the largest vendors, however, because, for the most part as shown above, their business is not dependent on serving these smaller facilities. But other smaller ICS vendors do. At least, they do for now. Adoption of a unitary rate cap that is below-cost as to nearly 80% of Jail facilities will lead to vendors’ abandoning of such facilities. If they can’t recover their costs, vendors won’t serve them.

Table 3:

**\$.20/minute Rate Will Jeopardize Service in Jails**

- ▶ **Jails with ADP < 350 – ICS Vendor Proposed \$.20/minute rate**
  - **Same rate for Jails as Prisons**
  - **Securus reported cost \$.31/minute in small-medium size jails**
    - Economist Siwek Report (March 23, 2013) – Average “Low 10” and “Medium 10” Jail Cost without Commissions
  - **Small to medium size jails represent a very small portion of the total inmates served by major ICS vendors:**

**Percentage of Total Inmates Served by Each Vendor**  
*Vendor ADP Percentage by Agencies*

Description	Number of Agencies <sup>1</sup>	CenturyLink	Global Tel*Link	ICSolutions	Securus	Telmate
Jails 100-349	665	0.63%	2.7%	6.8%	9.6%	15%
Jails 1-99	828	0.03%	0.4%	1.0%	3.8%	4%

<sup>1</sup> Number of agencies served by CenturyLink , Global Tel\*Link, ICSolutions, Securus, Telmate

- ▶ **ICS Vendors will not serve jails where they lose money on every call**
- ▶ **Current market activity indicates that GTL and Securus are moving away from serving small and medium size jails**
- ▶ **Service threatened at over 80% of Nation’s Jails (<350 inmates)**

<sup>7</sup> See U.S. Dep’t of Justice, Office of Justice Programs, Bureau of Justice Statistics, Census of Jail Facilities (2006), available at <http://www.bjs.gov/content/pub/pdf/cjf06.pdf> (showing that 2,265 of the nation’s 2,859 jails had ADP of 249 or less).

**The ICS Vendor Proposal’s Treatment of Ancillary Fees, Including Single-Call Options,  
 Will Lead to Further Windfalls**

The gamesmanship of GTL, Securus, and Telmate does not end with its proposed rate caps. It continues with those vendors’ proposed treatment of fees and single-call “convenience” or “premium payment” options. Pay Tel has argued that the ICS Vendor Proposal: “places emphasis on its elimination of certain Ancillary Fees; at the same time, however, it retains a carefully selected menu of permissible Ancillary Fees that would remain untethered by cost or other regulatory justification. In this regard, the Proposal may look good on its face—keeping four fees [as well as single-call options] while eliminating many others—but a closer examination reveals the troubling impact of the fees that would remain.”<sup>8</sup> That closer examination is provided below in Tables 4 and 5, which reveal that the ICS Vendor Proposal’s supposed “concessions” are anything but; in most cases, the proposed fees will lead to increases in fee revenues over the status quo.

Table 4:

**Do Proposed Fee “Concessions” Save Families Money?**

**List of Fee “Concessions” Included with ICS Vendor Proposal**

Fee	Global Tel*Link Current Charge	Securus Current Charge	Telmate Current Charge
VINE	Fee Not Found	Fee Not Found	Fee Not Found
State Regulatory Cost Recovery Fee	Fee Not Found	Fee Not Found	Fee Not Found
Federal Regulatory Cost Recovery Fee	\$3.49/month Collect up to 8%/call Prepaid	\$3.49/month	Fee Not Found
Refund Fee	Fee Not Found	Fee Not Found	Prepaid Calling Card
Account Setup Fee	Fee Not Found	Fee Not Found	Fee Not Found
Billing Statement Fee	Fee Not Found	Fee Not Found	\$1.99/month
Single Bill Fee	\$3.49/month	Fee Not Found	Fee Not Found
USF Administration Fee	Fee Not Found	% Varies	\$ .99/month
Wireless Administration Fee	Fee Not Found	Up to \$3.99/month	\$1.99/month
Location Validation Fee	8% per call	4%	Fee Not Found
Voice Biometrics Fee	Fee Not Found	\$.40/call	Fee Not Found
Technology Fee	Fee Not Found	Fee Not Found	Fee Not Found
Withdrawal Fee	Fee Not Found	Fee Not Found	Fee Not Found
Carrier Cost Recovery Fee	Fee Not Found	Fee Not Found	Fee Not Found*
Collect Call Regulatory Fee	Fee Not Found	Fee Not Found	Fee Not Found
Funding Fee	Another name for Transaction Fee	Another name for Transaction Fee	Another name for Transaction Fee
Regulatory Assessment Fee	Fee Not Found	Fee Not Found	Fee Not Found*
Account Services Fee	Fee Not Found	Fee Not Found	Fee Not Found

Sources: Interstate Tariffs (Global Tel\*Link 12/4/14 and Securus 8/29/14); Telmate’s proposal to Lane County, Oregon (1/21/14)

<sup>8</sup> Pay Tel Response to ICS Vendor Proposal, at 6.

Table 5:

**Concessions + Proposed Fees = Net Increase in Revenue for GTL, Securus & Telmate**

Fee	Proposed Charge	Current Charge	CONCESSION?
Payment Processing or Transaction Fee	\$7.95 per payment	Current Vendor Fees for the majority of payments are equal to or less than the proposed fee	<b>NONE</b> In most cases the new fee represents an <b>increase in fee revenue.</b>
Validation Fee	8% per call	Current Vendor Fees for validation are equal to or less than the proposed fee	<b>NONE</b> In most cases the new fee represents an <b>increase in fee revenue.</b>
Money Transfer Fee – Added to Western Union or MoneyGram Fee	\$2.50 per payment	Currently no fee added to: Western Union \$11.95* MoneyGram \$10.99*	<b>NONE</b> In all cases, the new fee represents an <b>increase in fee revenue.</b>

\* Revenue share provided to ICS vendor from these fees.

Not surprisingly, the impact of these “concessions,” coupled with the ICS Vendor’s proposal to retain current fee levels for single-call options (for at least three years), would lead to further staggering profits. Pay Tel has compared the projected impact of the ICS Vendor Proposal’s fee structure (including single-call fees) to those fees Pay Tel proposed in its Ethical Proposal for Reform of Inmate Calling Rates and Fees.”<sup>9</sup> That comparison shows that Pay Tel, with annual gross revenues of around \$25 million, would realize roughly an additional \$7.1 million in revenue and profit if the Commission adopts the ICS Vendor Proposal fee structure (see Table 6). It goes without saying that the projected annual revenue figures would be exponentially higher for GTL, Securus, and Telmate, companies whose annual gross revenues dwarf Pay Tel’s (see Table 7).

<sup>9</sup> See generally Letter from Marcus W. Trathen, Counsel to Pay Tel, to Marlene H. Dortch, Secretary, FCC, Attachment, “Ethical Proposal for Reform of Inmate Calling Rates and Fees,” WC Docket No. 12-375 (Oct. 3, 2014).

Table 6:

**Proposed Fees Impact to ICS Vendor Revenue/Profit**

*“This carefully constructed consensus proposal reflects... a reasonable path forward toward the Commission’s objectives to ensure that the rates and practices are just and reasonable...”*  
 GTL, Securus, Telmate Proposal

**Proposed Fees – Projected Impact to Pay Tel Revenue/Profit**

*Pay Tel Gross Annual Revenues ~\$25 Million*

Fee	GTL, Securus & Telmate Proposal	Pay Tel Ethical Proposal	Increased Revenue Per Fee	Projected Annual Revenue Increase for Pay Tel
Transaction Fee IVR/Web	\$7.95	\$3.00	\$4.95	\$2,512,758
Transaction Fee Live Agent	\$7.95	\$5.95	\$2.00	\$203,370
Western Union MoneyGram	\$10.95	\$5.95	\$5.00	\$845,245
Money Transfer Fee	\$2.50	No Charge	\$2.50	\$422,622
Validation Fee	8% of call	No Charge	8% of call	\$1,766,166
Single Call Options	\$14.99	\$6.60	\$8.39	\$3,121,784
<b>Total Fee Revenue/Profit Increase</b>				<b>\$7,105,780</b>

Table 7:

Pay Tel <u>Additional</u> Profit On \$25M Revenue	Global Tel*Link \$500M Revenue* 20 X \$25M	Securus \$400M Revenue* 16 X \$25M	Telmate \$100M Revenue* 4 X \$25M
Annual Profit from Proposed Fees: <b>\$7.1 Million/year</b>	Profit from Proposed Fees: <b>\$142 Million/year</b>	Profit from Proposed Fees: <b>\$113.6 Million</b>	Profit from Proposed Fees: <b>\$28.4 Million</b>

*\*Estimated Revenue*

The regulatory scheme set forth in the ICS Vendor Proposal will not lead to just and reasonable rates and fees for consumers. The proposal sets up a rate structure that will line the pockets of those vendors serving Prisons and Mega-Jails and a fee structure that will dramatically increase revenues for any vendors willing to charge them—all to the detriment of inmates and their families. Not surprisingly, the biggest winners are the very same vendors who submitted this one-sided proposal.

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## **Attachment 1**

### **Methodology**

The following describes the process for identifying each vendor's client list based upon publicly-available information. Every effort was made to compile an accurate list; however due to RFPs, contract changes, etc., the ICS industry is constantly changing. The information gathered can be considered an accurate client snapshot of the vendors described.

#### **Securus & GTL**

- *Begin with list provided in response to Georgia DOC RFP request for all facilities served over the past 5 years*
- *Compare against either the Securus website or GTL Offender Connect website facility list and omit any that are not active*
- *Compare against other competitor Lists for cross-over (facility sites listed on more than one vendor's client list); Research any clients listed on more than one vendor's list (check RFP data, facility website, etc. to validate vendor and adjust lists)*
- *Obtain ADP from: ACA 2013-2014 National Jail & Adult Detention Directory, facility website, RFP, or other public data source*

#### **Telmate**

- *Begin with list provided in response to Georgia DOC RFP request for all facilities served over the past 5 years*
- *Compare against other competitor Lists for cross-over (facility sites listed on more than one vendor's client list); Research any clients listed on more than one vendor's list (check RFP data, facility website, etc. to validate vendor adjust lists accordingly)*
- *Obtain ADP: ACA 2013-2014 National Jail & Adult Detention Directory, facility website, RFP, or other public data source*

#### **CenturyLink**

- *Begin with list provided on CenturyLink Corrections Website*
- *Compare against ICSolutions, Telmate, GTL and Securus Lists for cross-over. Research any clients listed on more than one vendor's list (check RFP data, facility website, etc. to confirm vendor and adjust lists accordingly)*
- *Obtain ADP: ACA 2013-2014 National Jail & Adult Detention Directory, facility website, RFP, or other public data source*

#### **ICSolutions**

- *Begin with list provided in recent ICSolutions proposals obtained through FoIA request*
- *Compare against CenturyLink, Telmate, GTL and Securus Lists for cross-over.*
- *Research any clients listed on more than one vendor's list (check RFP data, facility website, etc. to confirm which vendor provides service and adjust lists accordingly)*
- *Obtain ADP: ACA 2013-2014 National Jail & Adult Detention Directory, facility website, RFP, or other public data source*