



**STATE OF ALABAMA**  
PUBLIC SERVICE COMMISSION  
P.O. BOX 304260  
MONTGOMERY, ALABAMA 36130

TWINKLE ANDRESS CAVANAUGH, PRESIDENT  
JEREMY H. ODEN, ASSOCIATE COMMISSIONER  
CHRIS, "CHIP" BEEKER, JR, ASSOCIATE COMMISSIONER

JOHN A. GARNER, EXECUTIVE DIRECTOR

January 30, 2015

**By Electronic Filing**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Received & Inspected ~~of~~ *Notice of Ex Parte Presentation*

FEB 10 2015

FCC Mail Room

**Re: WC Docket No. 12-375, Rates for Interstate Inmate Calling Services**

Dear Ms. Dortch:

The Alabama Public Service Commission hereby submits the following Ex Parte Presentations:

DOCKET FILE COPY ORIGINAL

1. Response to Second Further Notice of Proposed Rulemaking – Ancillary Charges and Services; and
2. Response to Securus comments, dated January 27, 2015, for the Second Further Notice of Proposed Rulemaking

Please do not hesitate to contact the undersigned at (334) 242-2947 should any questions arise concerning this letter or the attached.

Respectfully,

Darrell A. Baker  
Director, Utility Services Division

Enclosure

cc: Chairman Tom Wheeler  
Commissioner Michael O'Reilly  
Commissioner Jessica Rosenworcel  
Julie Veach  
Lynne Engledow  
Rhonda Lien

Commissioner Mignon Clyburn  
Commissioner Ajit Pai  
Rebekah Goodheart  
Pamela Arluk  
David Zesinger

Received & Inspected

FEB 10 2015

Alabama Public Service Commission – Ex Parte Presentation  
WC Docket No. 12-375  
January 30, 2015

FCC Mail Room

**Alabama Public Service Commission Ex Parte Presentation  
Response to Reply Comments of Securus Technologies, Inc.  
on Second Further Notice of Proposed Rulemaking**

**Introduction**

On January 27, 2015, Securus Technologies, Inc. (“Securus”) filed reply comments to the Commission’s Second Further Notice of Proposed Rulemaking (“FNPRM”). Securus made statements about the Alabama Public Service Commission (“AL PSC”) Inmate Calling Service Order dated December 9, 2014<sup>1</sup>; the proceeding associated therewith, their subsequent appeal of the Order to the Alabama Supreme Court, and about the subsequent Stay of the Commission’s Order that are misleading and in some instances erroneous. The purpose of this presentation is to address those inaccuracies.

**AL PSC Order Reduces Revenues but Does Not Prohibit Site Commissions**

Securus Comments

The AL PSC recently approved a new rate regime involving a multi-year, step-down reduction; the final rates for state prisons mirror the FCC’s Interim Rate Caps. One party notes that, even having adopted those law rates, “Alabama still permits commission payments,” and argues that this anomaly proves that carriers remain able to pay commissions out of the new, lower rates. That argument is incorrect. Securus and Global Tel\*Link have each appealed the AL PSC Order in part on the ground that it was unreasonable and unjust to set rates at or close to the FCC Interim Rate Caps unless the Alabama Commission will also adopt the FCC’s prohibition on assessing interstate site commissions. (Pages 4-5)

---

<sup>1</sup> Re: Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service, APSC Docket 15957. Order dated December 9, 2014 (“the December 2014 Order”).

AL PSC Response

Securus and GTL did appeal the AL PSC Order in part on the ground that we did not prohibit site commissions. However, the AL PSC, like most state commissions, has no authority to prohibit apportionments of a provider's net profit with State, county or municipal confinement facilities. Our jurisdiction is defined by the Alabama Legislature in Title 37; Code of Alabama. We have regulatory authority over the rates and charges of ICS provided at confinement facilities but have no fiscal oversight for the facilities nor has the Legislature granted us policy making authority for the facilities. Our position is clearly stated in the December 2014 Order:

The Commission [AL PSC] neither requires nor precludes the payment of intrastate site commissions. Our regulatory obligation is to ensure that ICS rates and charges are fair and reasonable. We satisfy that regulatory obligation through caps on ICS rates, ancillary fees, single payment services and the requirement that providers refund unused balances for prepaid ICS. After complying with our rate caps and rules, the provider is free to utilize their net profit as they see fit without interference from the Commission. Once the Commission's regulatory obligations are met with respect to ICS rates and fees, the payment of site commissions neither increases the prices consumers pay for ICS nor will elimination of site commissions reduce ICS prices.<sup>2</sup>

Securus asserts that the Commission has prohibited interstate site commissions. The AL PSC respectfully requests confirmation from the Commission if it has indeed prohibited interstate site commissions. The language in the First and Second FNPRMs does not support the Securus conclusion:

We do not conclude that ICS providers and correctional facilities cannot have arrangements that include site commissions. We conclude only that, under the Act, such commission payments are not costs that can be recovered through interstate ICS rates.<sup>3</sup>

---

<sup>2</sup> December 2014 Order, ¶. 4.6.

<sup>3</sup> In the Matter of Rates for Interstate Inmate Calling Services, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking, rel. September 26, 2013 ("First FNPRM"), ¶56.

The Commission reaffirmed previous findings that site commission payments were not costs but “profit.” As a result, the Commission determined that site commission payments “were not part of the cost of providing ICS and therefore not compensable in interstate ICS rates”<sup>4</sup>

We seek comment on prohibiting all site commission payments for interstate and intrastate ICS to enable market-based dynamics to ensure just and reasonable ICS rates and fair ICS compensation.<sup>5</sup>

It would be redundant for the FCC to seek comments in the Second FNPRM for prohibiting interstate site commission payments had the Commission previously prohibited such payments. The AL PSC notes that we did not conclude site commission payments are costs that can be recovered through intrastate ICS rates nor did the rates we set include recognition of site commissions. Our position is that we do not have the authority to preclude such payments. We exercised our regulatory authority to cap the rates for all inmate calling, including single payment services, and the ancillary charges associated therewith.

Securus along with Global Tel\*Link (“GTL”) are quite adamant that the Commission and the AL PSC eliminate or substantially reduce intrastate site commission payments which is ironic given that both are consistently the most aggressive in offering excessive site commission payments. A few outliers in this industry have imposed excessive ancillary fees and single payment charges on subscribers for purposes of offering higher site commission payments than their competitors. Caps on rates and fees pose a more significant threat to the revenues of those providers that heretofore leveraged excessive charges and fees to their competitive advantage. With the adoption of caps on rates and fees, providers that eschewed the inflated fees and charges of the dominant providers will obviously experience a much lower revenue impact since their fees and charges are closer to if not already below the capped levels. Consequently, they are not joining the cacophony insisting that regulators eliminate or substantially reduce apportionments of their net profit to unregulated entities; a request that exceeds the AL PSC’s statutory authority.

---

<sup>4</sup> *In the Matter of Rates for Interstate Inmate Calling Services, Second Further Notice of Proposed Rulemaking*, WC Docket No. 12-375, released October 22, 2014 (“Second FNPRM”), ¶10.

<sup>5</sup> Second FNPRM, ¶10. See also ¶19.

## **The AL PSC Order Does Not Attempt Regulation of Patents and Video**

### Securus Comments

Securus raised several more grounds for appeal, including that the Order exceeds the AL PSC's jurisdiction in its attempt to regulate patents, transaction fees and video services, is contrary to record evidence, and interferes with contracts (footnote 23).

### AL PSC Response

The AL PSC has never mentioned anything in our Orders about regulating patents. In Section 13.00 of our July 7, 2014 Order, we addressed the fact that that Securus controls 75% of the patents in the ICS industry and concluded that we would submit comments to any subsequent Commission Order that addresses market control through patent acquisition.

Our December 9, 2014 Order Implementing Revised rules for Inmate Phone Service states the following with respect to video visitation:

Regulatory authority over Video Visitation Service (“VVS”) is one of the issues under review by the FCC in its Further Notice of Proposed Rulemaking (the “FNPRM”) for WC Docket No. 12-375, released October 22, 2014. The Commission hereby vacates those portions of our October 1, 2013 Order related to VVS and ¶¶ 6.53 through 6.61 of our July Order under this Docket. Subject to subsequent FCC Orders which may deem VVS a regulated ICS service, we defer intrastate rulemaking for VVS to a later date.<sup>6</sup>

---

<sup>6</sup> December 2014 Order, ¶ 6.58.

## **Claims with Respect to a Stay of the AL PSC Order are Misleading**

### Securus Comments

The Alabama Supreme Court stayed the AL PSC Order on December 30, 2015, and the AL PSC then stayed its order, on its own motion, during its open meeting held January 6, 2015. (Page 5)

### AL PSC Response

Securus and GTL appealed our Order to the Alabama Supreme Court under supersedeas pursuant to 37-1-141, Code of Alabama.

Either party or any intervenor may appeal to the supreme court from the action or order of the commission under the same rules and regulations and in the same manner and under the same conditions as are or may be provided by law for appeals from circuit courts in other public utility cases. Application for supersedeas may be made to the supreme court or a justice thereof. All supersedeas bonds required shall be in the same amount, subject to the same penalties and conditions and have the same effect as is now provided or may hereafter be provided by law in such cases.

If the appeal is by a telephone company or a public utility and supersedeas is granted, the appellant shall be entitled to collect, subject to refund with interest, any portion of the requested increase denied on any rate decrease directed by such supersedeas order from the time of taking such appeal until final disposition of the case.

(Acts 1978, No. 851, p. 1274, §2.)

The Alabama Supreme Court granted the supersedeas requests of Securus and GTL after they posted a bond as a promissory for refunding revenues collected during the appeal should the Court reject all or part of the appeal (see Exhibit 1). The stay only applied to Securus and GTL. The other ICS providers were not affected and would have been required to implement the provisions in our Order.

The statement that the AL PSC stayed the Order on our own motion is completely false. CenturyLink<sup>7</sup> and Telmate<sup>8</sup> filed Motions with the AL PSC to stay our Order for the remaining providers. CenturyLink's Motion includes the following justification for the Commission to stay its Order for all providers:

The unique procedural posture of this case has created uncertainties that will make uniform implementation among the ICS providers difficult, if not impossible, if the implementation date is not delayed. To CenturyLink's knowledge, this is the first appeal seeking a stay of a Commission order involving "rates and charges" of a telephone company or public utility that was issued, without hearing, as part of a generic docket impacting a number of carriers, most of which are not automatically parties to the two appeals. With the Court's grant of GTL's and Securus' supersedeas petitions, other carriers participating in this docket or currently providing inmate calling services in Alabama now find themselves in the untenable position of operating under a different set of rules than their competitors for the duration of the appeal, while state and local governmental bodies face additional uncertainty and confusion in administering, renewing or rebidding contracts during the same period.<sup>9</sup>

The Commission Order granting the temporary stay is shown in Exhibit 2

### **Cost Information used by the AL PSC**

#### Securus Comments

Securus also notes that the AL PSC record contains no cost information, nor was any requested during that Alabama proceeding, and thus assertions that site commissions are not a significant factor in inflating calling rates are baseless. (Pages 5-6)

---

<sup>7</sup> Re: Century Link's Motion for Rehearing, Reconsideration or Modification of the Further Order Adopting Revised Inmate Payphone Service Rules In re: Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service Docket No. 15957, Wilkerson & Bryant P.C., dated January 2, 2015 ("CenturyLink Motion").

<sup>8</sup> Answer of Telmate, LLC in Support of Centurylink's Motion for Rehearing, Reconsideration or Modification, dated January 5, 2015.

<sup>9</sup> CenturyLink Motion, pages 2-3.

AL PSC Response

The AL PSC requested data from all ICS providers. The initial data request is dated January 25, 2013. A supplemental data request is dated May 7, 2013. The requests primarily concerned revenue, pricing, call usage, taxes, government fees, and unclaimed property. On March 3, 2014, Mr. Darrell Baker of the AL PSC submitted a request for disclosure of certain confidential and proprietary information of Pay Tel Communications, Inc. (“Pay Tel”). Pay Tel submitted to Mr. Baker its proprietary cost study that was filed in connection with Commission Docket 12-375 on July 23, 2013 (see Exhibit 3). Pay Tel’s study included cost support for both ICS rates and ancillary fees. We chose the Pay Tel study because it and the 2008 ICS Provider Data Submission are the basis on which the Commission established the interim interstate rate caps and because Pay Tel complied with the Commission’s request for cost support of ancillary fees.

We establish an interim rate cap for debit and prepaid interstate ICS calls of \$0.21 per minute based on the public debit call cost data included in Pay Tel’s cost submission. The costs reported by Pay Tel for debit calling represent the highest, total-company costs of any data submission in the record and therefore represent a conservative approach to setting our interim debit and prepaid rate cap.<sup>10</sup>

In 2008, the ICS Provider Data Submission identified the cost of debit and the adjusted cost of collect ICS calls as being \$0.164 per minute and \$0.24659 per minute respectively, assuming a 15-minute call duration. Both Pay Tel and Securus were participants in the 2008 study.<sup>11</sup>

Collect Call Rate Cap. We use a similar approach to establish the \$0.25 per minute interim rate cap for interstate ICS collect calls. The costs reported by the ICS Provider Data Submission represent the highest costs of any data submitted in the record and represent a conservative approach to setting our interim collect rate cap. Specifically, the ICS Provider Data Submission reported an effective per minute cost for ICS collect calls of \$0.246 per minute, assuming a 15-minute call duration. We base our collect call rate cap on this record information and note that this cost is higher than both Pay Tel’s and Securus’ reported costs of collect calls

---

<sup>10</sup> First FNPRM, ¶ 76.

<sup>11</sup> First FNPRM, ¶ 75.

(\$0.225 per minute for collect calls and \$0.124 per minute for all calls, respectively).<sup>12</sup>

See also Petitioners July 24, 2013 Ex Parte Letter at 2 (noting that the three largest ICS providers, who control “at least 90% of the ICS market,” were “remarkably silent” when asked to submit data regarding ancillary charges).<sup>13</sup>

Despite the fact that the FCC specifically requested that the ICS providers to supply data regarding their own Ancillary Fees, two of the largest ICS providers failed to file a response, and the largest ICS provider took the reader on a trip through the rate regulations from the 1980s and 1990s. While GTL feigned a response, it flatly refused to provide any other information than “rates and fees charged by interstate ICS providers are comparable to those being charged by other non-dominate providers for non-inmate operation service calling.” But at least GTL acknowledged the FCC’s public notice, even though it declined to follow the FCC’s instructions. Securus did not file any response to the public notice. Nor did CenturyLink. NCIC and Pay Tel did submit comments in response to the Public Notice, which proffered information and proposals on reforming Ancillary Fees. However, these filings must not distract the FCC from the fact that the three largest ICS providers, who control 95% of the state DOC ICS contracts, and more than 90% of the ICS industry’s revenues, have simply refused to cooperate with the FCC in this proceeding.<sup>14</sup>

In our Order of July 7, 2014, the AL PSC proposed provider submission of intrastate cost studies following the adoption of interim rates.

Following implementation of this Order and the interim rates and fees provided herein, the Commission intends to analyze costs supporting future intrastate ICS rates, provider ancillary charges, and confinement facility cost reimbursement.<sup>15</sup>

Securus and GTL submitted comments in response to the AL PSC proposal for cost studies.

---

<sup>12</sup> First FNPRM, ¶ 78.

<sup>13</sup> First FNPRM, footnote 136.

<sup>14</sup> *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Comments of Lee G. Petro, Drinker Biddle & Reath LLP, on behalf of Martha Wright, et al (the “Petitioners”), dated July 24, 2013, pp 1-2.

<sup>15</sup> Re: Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service, APSC Docket 15957. Order dated July 7, 2014.

#### Cost Studies

The Order indicates that the Commission intends to develop cost study procedures and require segregation of costs by jails and prisons and may "be further subdivided according to facility size." The Commission should not take any action on Alabama specific cost studies until the FCC has issued its conclusion regarding the extensive cost data submitted last month by ICS providers. Securus alone is on record as spending in excess of \$400,000 to have the FCC required study prepared, which such study includes data on intrastate costs. **To require ICS providers to expend additional money on an Alabama-specific study is not in the best interest of consumers, the Commission or the ICS providers** (emphasis added). Any consideration of additional Alabama cost studies should, at a minimum, be deferred until such time as the FCC has issued its evaluation of the cost data recently provided to it.<sup>16</sup>

#### Cost Studies

The Further Order indicates the Commission's desire to conduct cost studies to "analyze costs supporting future intrastate ICS rates, provider ancillary charges, and confinement facility cost reimbursement." GTL urges the Commission to reconsider the need and value of collecting individual company cost data. **Alabama and federal law demonstrate that cost data is not necessary to establish a rate cap regime for ICS rates** (emphasis added). The Commission adopted the current ICS rate caps in 2009 based on proposals from Staff, which were the same rates previously approved for AT&T's ICS service. There was no need for the Commission to conduct cost studies or review individual company cost data in establishing the current ICS rates, and **no such information is necessary now** (emphasis added).

The Commission's approach in 2009 is consistent with FCC orders finding that individual company cost data is not necessary to establish a rate cap regime. In the 1980s, the FCC determined that its existing policy requiring non-dominant carriers to support their proposed rates "with extensive cost and other economic data" was no longer necessary. The FCC found that, "[b]ecause the cost of developing this information is relatively great for a non-dominant carrier, the rates paid by its ultimate users are likely to be higher than if all competitive carriers were free from this unnecessary regulatory burden." The cost justification requirement "serves no useful purpose commensurate with the costs of compliance" and "nullifies many consumer benefits that competition produces." The FCC also abandoned the use of rate-of-return regulation to set carrier rates in the early 1990s

---

<sup>16</sup> RE: Generic Proceeding Considering the Promulgation of Telephone Service Rules Governing Inmate Phone Service, Comments of Securus Technologies, Inc., dated August 11, 2014, pages 15-16.

because it produces “high administrative costs,” fosters “cross-subsidization,” creates incentives for misallocation of costs, and supplies “insufficient incentives to encourage innovation.” Administering rate-of-return regulation “is a difficult and complex process, even when done correctly and well.” As the D.C. Circuit has explained:

Under a price cap scheme, the regulator sets a maximum price, and the firm selects rates at or below the cap. Because cost savings do not trigger reductions in the cap, the firm has a powerful profit incentive to reduce costs. Nor is there any reward for shifting costs from unregulated activities into regulated ones, for the higher costs will not produce higher legal ceiling prices. Finally, the regulator has less need to collect detailed cost data from the regulated firms or to devise formulae for allocating the costs among the firm's services.

**The Commission should therefore eliminate the requirement that cost studies be conducted or that individual ICS providers submit cost data. Such information is not necessary to establish permanent ICS rate caps (emphasis added).<sup>17</sup>**

Securus infers that the AL PSC does not believe that site commissions are a factor in existing ICS rates by citing one sentence in our January 16, 2015 Ex Parte Presentation to the Commission. The AL PSC stated the following in that presentation with respect to site commissions:

The APSC agrees that site commissions are one reason that total ICS charges to end users are higher than they could be but it is not the only reason and we disagree that eliminating site commissions alone will enable the market to perform properly.<sup>18</sup>

Rates are but one component of ICS provider revenues. The other components are revenues from ancillary fees, revenues from single payment services (Pay Now™, Text2Connect™, and similar single call

---

<sup>17</sup> RE: Docket No 15957, Comments of Global Tel\*Link Corporation on Further Order Adopting Revised Inmate Phone Rules, dated August 11, 2014, pages 25-27.

<sup>18</sup> Alabama Public Service Commission Ex Parte Presentation Response to Second Further Notice of Proposed Rulemaking, dated Jan. 16, 2015 (“APSC Ex Parte”), page 5.

offerings), revenues from non-refunded customer prepayments, and revenues from other services such as video visitation.<sup>19</sup>

...the APSC believes a holistic approach is necessary and that by simultaneously setting just and reasonable rates and fees in all sources of provider revenue, site commissions will return to a reasonable level that more closely approximates facility costs without the need to proceed down the slippery slope of interference in contractual matters outside our regulatory jurisdiction.<sup>20</sup>

In most states, the provider for facility contracts is not selected on the basis of lowest end user rates and charges. The provider is selected based on providing the most benefit to the facility. Therefore, even if site commissions are eliminated, what is the market force that will drive rates lower? There is no assurance that will happen unless bid laws are changed in every state requiring provider selection based on the lowest end user rates and charges. As discussed previously, a few outliers in this industry have imposed excessive ancillary fees and single payment charges on subscribers for purposes of offering higher site commission payments than their competitors. They have leveraged excessive charges and fees to their advantage over those providers that do not divert inmate calls to the more lucrative single payment rates and have not imposed excessive ancillary fees. Rates are only one component of the ICS end user's cost for the service. Eliminating site commissions alone will leave intact the excessive fees and charges that support existing site commission abuses. Requiring reasonable ancillary fees and single payment charges will assuredly lower the end user's total costs for their service. By eliminating the revenue excesses feeding the abuse, it will also lead to far more reasonable site commission offerings. However to ensure market competition forces reductions in call rates, state laws must be changed to ensure provider selection is based on low price to the end user. That is exactly what happened in many of the states where rates were significantly decreased.

---

<sup>19</sup> APSC Ex Parte, page 2

<sup>20</sup> APSC Ex Parte, page 2

# **Exhibit 1**

**Securus and GTL Applications for Supersedeas  
With the Alabama Supreme Court**

December 17, 2014



VIA ELECTRONIC FILING AND HAND DELIVERY

Mr. Walter Thomas, Secretary  
Alabama Public Service Commission  
100 N. Union Street, Suite 850  
RSA Union Building  
Montgomery, AL 36104

**RE: In re: Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Services, Docket 159578**

Dear Mr. Thomas,

Enclosed please find documents filed with the appeals court today.

Very truly yours,

Laura S. Gibson

LSG/lg  
Enclosure(s)

cc: Chief Administrative Law Judge John A. Garnier (w/enclosures)

DEC 16 2014

CLERK  
SUPREME COURT OF ALABAMA

*Circuit Court No.* \_\_\_\_\_ *Supreme Court No.* \_\_\_\_\_

APPEAL  
TO  
**Supreme Court  
of Alabama**

FROM

SECURUS TECHNOLOGIES, INC.

*Appellant*

*vs.*

ALABAMA PUBLIC SERVICE COMMISSION

*Appellee*

FILED

DEC 16 2014

COURT OF  
CIVIL APPEALS

|   |  |                      |
|---|--|----------------------|
| State of Alabama<br>Unified Judicial System<br>Form ARAP-1 (front) Rev.1/97 | <b>NOTICE OF APPEAL TO THE</b> (Check appropriate block)<br><input checked="" type="checkbox"/> SUPREME COURT OF ALABAMA<br><input type="checkbox"/> COURT OF CIVIL APPEALS OF ALABAMA | Civil Action Number: |
|---|--|----------------------|

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY, ALABAMA

|                                |                                   |
|--------------------------------|-----------------------------------|
| APPELLANT                      | SECURUS TECHNOLOGIES, INC.        |
| V. APPELLEE                    | ALABAMA PUBLIC SERVICE COMMISSION |
| TRIAL JUDGE                    |                                   |
| DATE OF JUDGMENT:              | December 9, 2014                  |
| DATE OF POST - JUDGMENT ORDER: |                                   |

NOTICE IS HEREBY GIVEN THAT SECURUS TECHNOLOGIES, INC. appeal(s) to the above-named court from the  Final Judgment  Order Further Order Adopting Prison Calling Service in Docket 15957 entered in this cause. (describing it)

CHECK THE PROPER DESCRIPTION OF THE APPEALED CASE UNDER THE APPROPRIATE COURT:

|   |   |
|---|---|
| <b>SUPREME COURT</b><br>1. <input type="checkbox"/> Summary Judgment, amount claimed more than \$ 50,000<br>2. <input type="checkbox"/> Judgment Amount exceeds \$50,000<br>3. <input type="checkbox"/> Amount Sought in trial court more than \$50,000, Judgment for defendant<br>4. <input checked="" type="checkbox"/> Equitable Relief, except for domestic relations<br>5. <input checked="" type="checkbox"/> Other: <u>STAY OF IMPLEMENTATION OF ORDER</u> | <b>COURT OF CIVIL APPEALS</b><br>1. <input type="checkbox"/> Summary Judgment, amount claimed \$ 50,000 or less<br>2. <input type="checkbox"/> Judgment Amount \$50,000 or less<br>3. <input type="checkbox"/> Amount Sought \$50,000 or less, judgment for defendant<br>4. <input type="checkbox"/> Workmen's Compensation<br>5. <input type="checkbox"/> Domestic Relations<br>6. <input type="checkbox"/> Other: _____ |
|---|---|

APPELLANT FILES WITH THIS NOTICE OF APPEAL:

- Security for costs of appeal
- A supersedeas bond in the amount of \$ 485,000.00
- Deposited cash security in the amount of \$ \_\_\_\_\_
- Is exempted by law from giving security for costs of appeal by virtue of \_\_\_\_\_

Filed \_\_\_\_\_ (Date)

2025 Third Ave. North, Ste. 500

Address  
Birmingham, AL 35203

(205) 323-1888

Telephone Number

CERTIFIED AS A TRUE COPY

J. MARK WHITE

Appellant or Attorney for Appellant

Email MWhite@whitearnolddowd.com

Circuit Clerk

**SECURITY FOR COSTS**

We hereby acknowledge ourselves security for costs of appeal. For the payment of all costs secured by this undertaking, we hereby waive our right of exemption as to personal property under the Constitution and laws of the State of Alabama.

Executed with our seals this 16<sup>th</sup> day of December, 2014

Filed and approved: \_\_\_\_\_ (Date)

Appellant-principal

Surety

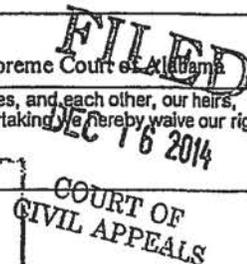
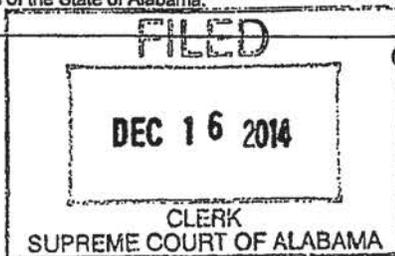
Surety

Circuit Clerk

(Amended November 9, 1976; October 1, 1991.)

**SUPERSEDEAS BOND**

We, the undersigned principal and sureties, hereby acknowledge ourselves bound unto The Supreme Court of Alabama in the sum of \$485,000.00 Dollars, for the payment of which we bind ourselves, and each other, our heirs, executors, [(for amount of bond see Rule 8(a) and administrators, jointly and severally, and as part of this undertaking] we hereby waive our rights of exemption as to personal property under the Constitution and laws of the State of Alabama.



WHEREAS, the above-named appellee (s) recovered a judgment against appellant (s) for the sum of \_\_\_\_\_ Dollars (and the further acts or duty \_\_\_\_\_)  
 [describing judgment in addition to or other than for money only] \_\_\_\_\_ Dollars, the costs in that behalf expended.  
 NOW, therefore, the condition of the foregoing obligation is such that, if the appellant shall prosecute this appeal to effect, and satisfy such judgment, penalties, and costs including costs of appeal as may be rendered in this case, then the said obligation to be null and void, otherwise to remain in full force and effect.  
 Executed with our seals this 16th day of December, 2014.  
 Filed and approved: \_\_\_\_\_ \* Supersedeas Bond attached (L.S.)  
 (Date) Appellant-principal  
 \_\_\_\_\_ (L.S.)  
 Surety  
 \_\_\_\_\_ (L.S.)  
 Surety  
 Circuit Clerk  
 \_\_\_\_\_ (L.S.)  
 Surety  
 EXECUTION OF JUDGMENT STAYED:  
 Bond fixed at: \$ 485,000.00  
 (Not required for money judgment only.)  
 \_\_\_\_\_ (L.S.)  
 Circuit Judge

**DESIGNATION OF RECORD ON APPEAL**

DESIGNATION OF CLERK'S RECORD: Appellant requests the clerk to include the following checked materials in the clerk's record:

|  |   |
|--|---|
| 1. <input type="checkbox"/> Complaint<br>2. <input type="checkbox"/> Answer<br>3. <input type="checkbox"/> Counter-claim<br>4. <input type="checkbox"/> Cross-Claim<br>5. <input type="checkbox"/> Third-party Complaint<br>6. <input type="checkbox"/> Third-party Answer<br>7. <input checked="" type="checkbox"/> Motion to dismiss<br>8. <input type="checkbox"/> Pretrial order | 9. <input checked="" type="checkbox"/> Entire record (less those items set forth in Rule 10 (a))<br>10. <input type="checkbox"/> Motion for summary judgment<br>11. <input type="checkbox"/> Opposition to motion for summary judgment<br>12. <input type="checkbox"/> Final (Judgment) (Order)<br>13. <input type="checkbox"/> Motion for New Trial<br>14. <input type="checkbox"/> Ruling on Motion<br>15. <input type="checkbox"/> Others: _____<br>16. <input type="checkbox"/> Exhibit Number: _____ |
|--|---|

**TRANSCRIPT STATUS**

Transcript will not be ordered. [See Rule 10(b), ARAP.]  
 Transcript will be ordered. [See Rules 10(b)(2) and 11 (a)(2), ARAP. Form 1A or 1B.] Court reporter(s): \_\_\_\_\_

NOTE: If more than one court reporter was involved in this case, you must file a Transcript Purchase Order Form in compliance with Rules 10(b) and 11(c), Form 1A or 1B of the ARAP, for each court reporter.  
 (Amended October 1, 1991.)

**CERTIFICATE OF FILING**

I certify that I have this date filed with the clerk of the trial court the original and \_\_\_\_\_ copies of the foregoing notice of appeal (along with \$ 200 docket fee), and such other instruments as have been completed and included herein. A true copy of each of these items will be served by the clerk of the trial court on each of the following:

- 1) Clerk of the appellate court, (the \$ 200 docket fee shall be transmitted with this filing) or affidavit of hardship.
- 2) Court Reporter.
- 3) Counsel for appellee, or appellee if no counsel.

Name: Alabama Public Service Commission  
 Address: 100 North Union Street, Ste. 850, Montgomery, AL, 36104

DATED this 16th day of December, 2014  
Samuel Gibson  
 Attorney for Appellant

(Amended October 1, 1991.)

SUPERSEDEAS BOND

Bond No. SUR60000245

IN THE SUPREME COURT of ALABAMA,

|                                    |   |           |
|------------------------------------|---|-----------|
| SECURUS TECHNOLOGIES, INC.,        | ) |           |
|                                    | ) |           |
| Appellant,                         | ) | CASE NO.: |
| v.                                 | ) |           |
|                                    | ) |           |
| Alabama Public Service Commission, | ) | _____     |
|                                    | ) |           |
| Appellee.                          | ) | _____     |

KNOW ALL MEN BY THESE PRESENTS, That we, SECURUS TECHNOLOGIES, INC., as Principal and Ironshore Indemnity Inc., a Minnesota corporation, as Surety, are held and firmly bound unto the STATE OF ALABAMA for the benefit of the ALABAMA PUBLIC SERVICE COMMISSION in the amount of Four Hundred, Eighty-Five Thousand Dollars and 00/100 Dollars (\$485,000.00) for the payment of which, well and truly be made, we bind ourselves, our successors and assigns jointly and severally, firmly to these presents.

WHEREAS, the said SECURUS TECHNOLOGIES, INC. has petitioned the SUPREME COURT for the STATE OF ALABAMA for an appeal to said court of an action previously decided before the ALABAMA PUBLIC SERVICE COMMISSION, wherein the said SECURUS TECHNOLOGIES, INC. is an interested party and being numbered DOCKET NO. 15957 on the docket thereof.

NOW THEREFORE, the condition of this obligation is such that if the said SECURUS TECHNOLOGIES, INC. shall pay all such loss or damage as any person, firm, or corporation may sustain, including all such excess rates, fares, or charges, then this obligation shall be null and void and released; otherwise to remain in full force and effect, provided however, the maximum liability of the Surety shall not exceed the penal sum of Four Hundred Eighty-Five Thousand and 00/100 Dollars (\$485,000.00).

IN WITNESS WHEREOF, SECURUS TECHNOLOGIES, INC., as Principal and Ironshore Indemnity, Inc., as Surety, have hereunto set our hands this 11th day of December, 2014.

SECURUS TECHNOLOGIES, INC.  
Principal

WITNESS:

BY: \_\_\_\_\_

BY: \_\_\_\_\_

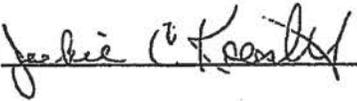
  
Geoffrey M. Boyd, CFO

IRONSHORE INDEMNITY INC.,  
Surety

BY: Sandra L. Fusinetti  
Sandra L. Fusinetti,  
Attorney-in-Fact

WITNESS:

BY: \_\_\_\_\_



POWER OF ATTORNEY

III- 60000245

Ironshore Indemnity Inc.

KNOW ALL MEN BY THESE PRESENTS, that IRONSHORE INDEMNITY INC., a Minnesota Corporation, with its principal office in New York, NY does hereby constitute and appoint: Brook T. Smith, Raymond M. Hundley, Jason D. Cromwell, James H. Martin, Sandra L. Fusinetti, Deborah Neichter, Jill Kemp, Jackie C. Koestel, Sheryon Quinn, Dawson West, Bonnie J. Wortham, Amy Meredith, Lynnette Long, Barbara Duncan, Mark A. Guidry, Michele Lacrosse and Summer A. Betting its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of IRONSHORE INDEMNITY INC. on the 22<sup>nd</sup> day of April, 2013 as follows:

Resolved, that the Director of the Company is hereby authorized to appoint and empower any representative of the company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed \$5,500,000 dollars, which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the Director and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, IRONSHORE INDEMNITY INC. has caused this instrument to be signed by its Director, and its Corporate Seal to be affixed this 2<sup>nd</sup> day of July, 2013.

IRONSHORE INDEMNITY INC.



By: [Signature]  
Daniel L. Sussman  
Director

ACKNOWLEDGEMENT

On this 2<sup>nd</sup> day of July, 2013, before me, personally came Daniel L. Sussman to me known, who being duly sworn, did depose and say that he is the Director of Ironshore Indemnity Inc., the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.

AMY L. TAYLOR  
Notary Public - State of Tennessee  
Davidson County  
My Commission Expires 01-01-16



[Signature]  
Amy L. Taylor  
Notary Public

CERTIFICATE

I, the undersigned, Secretary of IRONSHORE INDEMNITY INC., a Minnesota Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at this 11<sup>th</sup> Day of December, 2014.



[Signature]  
Paul S. Giordano  
Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties."

IN THE SUPREME COURT OF ALABAMA

SECURUS TECHNOLOGIES, INC., )  
a Corporation, )  
Appellant, ) CASE NO. \_\_\_\_\_  
v. ) On Appeal from the  
ALABAMA PUBLIC SERVICE COMMISSION, ) Alabama Public  
Appellee. ) Service Commission

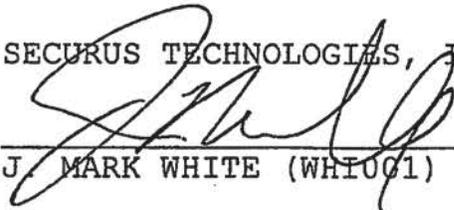
NOTICE OF APPEAL

Pursuant to Ala. Code §37-1-140, notice is hereby given that Securus Technologies, Inc., appeals to the Supreme Court of Alabama from the Order entered on December 9, 2014 by the Alabama Public Service Commission in the foregoing cause, which involves a controversy respecting rates and charges of a telephone company.

Respectfully submitted this 16<sup>th</sup> day of December, 2014,

SECURUS TECHNOLOGIES, INC.

BY:

  
MARK WHITE (WHI001)

  
AUGUSTA S. DOWD (DOW003)

  
THOMAS E. WALKER (WAL017)

FILED  
DEC 16 2014  
COURT OF  
CIVIL APPEALS

FILED  
DEC 16 2014  
CLERK  
SUPREME COURT OF ALABAMA

*Laura S. Gibson*  
LAURA S. GIBSON (GIB024)

Attorneys for Securus Technologies, Inc.  
WHITE ARNOLD & DOWD P.C.  
2025 Third Avenue North, Ste. 500  
Birmingham, AL 35203  
(205) 323-1888  
(205) 323-8907

BEFORE THE  
ALABAMA PUBLIC SERVICE COMMISSION

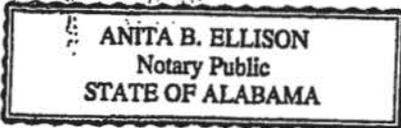
RE: GENERIC PROCEEDING )  
CONSIDERING THE PROMULGATION ) DOCKET 15957  
OF TELEPHONE RULES GOVERNING )  
INMATE PHONE SERVICES )

Security for Costs

We hereby acknowledge ourselves for security for costs of appeal. For the payment of all costs secured by this undertaking, we hereby waive our right of exemption as to personal property under the Constitution and the laws of the State of Alabama.

Executed with our seals this 16<sup>th</sup> day of December,  
2014.

*Anita B. Ellison*



SECURUS TECHNOLOGIES, INC.

*J. Mark White*

Appellant - Principal

J. MARK WHITE

As its: Attorney

*Angela Shaud*

Surety

(L.S.)

*Laura Gibson*

Surety

(L.S.)

Filed and Approved:

Date:

*Natalie Thomas*

By:

12/14/14

IN THE SUPREME COURT OF ALABAMA

FILED  
DEC 16 2014  
COURT OF  
CIVIL APPEALS

SECURUS TECHNOLOGIES, INC., )  
a Corporation, )  
Appellant, )

CASE NO. \_\_\_\_\_

FILED )  
DEC 16 2014 )  
CLERK )  
SUPREME COURT OF ALABAMA )

On Appeal from the  
Alabama Public  
Service Commission

v. )  
ALABAMA PUBLIC SERVICE COMMISSION, )  
Appellee. )

APPLICATION FOR SUPERSEDEAS AND ORDER THEREON

To the Supreme Court of Alabama and the Honorable Justices,  
thereof:

Securus Technologies, Inc., Appellant in the above-titled cause ("Securus"), pursuant to Title 37, Chapter 1, Division 3 of the Alabama Code, and, more specifically, pursuant to Sections 37-1-141 and 37-1-125 through 37-1-130, inclusive, applies to this Honorable Court to stay or supersede the order of the Alabama Public Service Commission, ("APSC") made and entered on December 9, 2014, in the underlying proceeding, ("APSC Order") involving a controversy concerning its rates and charges as a telephone company, from which an appeal is taken to this Court until the final disposition of this appeal.

Securus avers that the APSC Order is contrary to the statutory authority and jurisdiction of the APSC, is unlawful

and void, and is based on findings of fact contrary to the substantial weight of the evidence. Securus further avers that the APSC erred in its application of the law to the prejudice of the substantial rights of Securus.

As further grounds for this appeal, Securus avers that portions of the APSC Order are unlawful and void for the following additional reasons:

(1) The APSC Order exceeds both the regulatory authority held by APSC and what is otherwise necessary for APSC to achieve its objectives;

(2) The APSC Order interferes with and regulates contractual relationships between Securus and third parties where APSC lacks jurisdiction to do so;

(3) The APSC Order unlawfully extends APSC's jurisdiction over financial transactions carried out by third parties who are outside the control of Securus and are not subject to APSC authority;

(4) The APSC Order is contrary to the great weight of the evidence and is arbitrary and capricious in that it adopts a \$0.30 per minute rate cap but also allows for the payment by inmate calling service providers of unlimited site commissions. The failure of the APSC Order to cap site