



March 5, 2015

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

Re: WC Docket No. 12-375 – Rates for Interstate Inmate Calling Services (“ICS”)

Dear Ms. Dortch:

Network Communications International Corp. (“NCIC”) hereby files this response to the ex parte letters submitted by Securus Technologies, Inc. and Andrew D. Lipman in the above-referenced docket.¹ NCIC continues to support the payment of site commissions to inmate facilities and oppose the prohibition or regulation of these payments.

First, in response to Securus, NCIC reminds the Commission that the Joint Provider Proposal was not an ICS Industry-supported proposal, nor was it supported by the National Sheriff’s Association as indicated in their January 12, 2015 FCC filing. The Joint Provider Proposal was submitted by three inmate phone providers who purportedly control 85 percent of the inmate phone services. Those large providers have a very different market position and cost structure than NCIC and its customers.

As it looks ahead in this proceeding, the Commission should not lose sight of the fact that it costs more to provide inmate phone services in jails than in prisons. Any further FCC action that would curtail cost-recovery for jails and ICS providers serving those jails could ultimately lead to limitations on inmate calling – the opposite result of what the FCC sought to achieve in this proceeding.

The FCC should understand that by decreasing the rates, ancillary fees and single payment products from as high as \$14.99 for a 1 minute call down to \$.25 per-minute would obviously decrease commission payments to jails by as much as 98%. Further regulations attempting to eliminate site commissions will lead to administrative burdens for the FCC as it attempts to control what ICS providers do with the remaining profit on \$.25 per minute. Restricting or prohibiting site commissions may also result in appellate challenges from the

¹ Securus Technologies, Inc. Notice of Permitted Ex Parte Meeting, WC Docket No. 12-375 (dated February 18, 2015); Andrew D. Lipman Letter, WC Docket No. 12-375 (dated February 20, 2015). NCIC does not know who is behind the Lipman letter, which purports to be submitted on behalf of certain unnamed “clients with an interest in the regulation of inmate calling services.”



3,000 jails and 50 states prisons, and the state attorneys general negatively impacted by the eliminated commissions.

States that have previously capped per minute ICS rates, such as Alabama and Louisiana, were seeing the increases in “unbounded” commissions, leading to one conclusion: per minute rates and site commissions are not the issue. In fact, what causes the overcharging problem is the oldest bait and switch in the book. A company gives the customer a perceived rate and then adds ancillary fees and single-payment products to markup the price. While ancillary fees may be needed to recover actual costs, there is obviously significant abuse of these fees because they are currently not capped.

The Commission has been very clear in its support of the interim ICS rates of \$.21 per minute for debit calls and \$.25 per minute for collect calls. However, Securus’ is basically suggesting that in order to offer cost-recovery to jails, the FCC will need to raise rates even more (Ex parte letter pages 6-7):

Even worse would be an order holding that site commissions are now allowed on all calls, but without setting a per-minute additive rate, yet requiring carriers to adhere to a Rate Cap built on the cost data from the Mandatory Data Collection. ICS providers, big and small, will not be able to sustain a business model using rates based on ICS costs but paying out site commissions to cover non-ICS costs. The impending chaos of cancelled contracts and unchecked site commissions will be devastating to the industry.

This paragraph represents only the opinion of the three Joint Proposers, because after implementing the new rate caps in Alabama, including the caps on ancillary fees and single payment products, NCIC has experienced minimal revenue decreases, significant call volume increases for inmates and minimal decreases on cost recovery payments to jails. If the FCC were to mirror the proposed ruling in Alabama, the results would be a win-win-win for all parties involved in inmate calling. NCIC is aware of several other states considering the Alabama PSC ruling in order to control overcharges to inmates and their families.

Finally, in the last paragraph of the Securus letter (at page 7):

ICS competition already is working, and with final, unambiguous rules it will truly flourish. Should the Commission fail to address the twin ratemaking issues that are inherent in ICS, or subject carriers to below-cost rates with the possibility of unbounded site commissions, Securus will be forced to seek review of the forthcoming order in a federal Court of Appeals.

It is apparent from this proceeding that ICS competition is not working and that competition will not flourish to the benefit of the inmates until the FCC rules on “unambiguous” rates, ancillary fees and rates charged for single-payment products, which so far, in all the



filings, the Joint Proposers have not actually indicated what they (or their third-party entities)

charge for their non-tariffed products. Based on the Alabama PSC's example of Alabama jail commission statements, the ancillary fees and rates charged for single-payment products can make up as much as 50 percent of the revenue ICS users are paying.

Mr. Lipman also attacks the payment of site commissions to jails. However, Mr. Lipman conveniently ignores the filing by the National Sheriff's Association and their justification of costs in offering Inmate Calling Services to their inmates and states. Mr. Lipman alleges that "there is not a shred of evidence suggesting that any correctional institution has invested any capital in any ICS provider..."; yet he fails to recognize that the jails provide the facility to which the ICS providers attach their phones, the visitation rooms and booths where the ICS providers place their visitation phones, the computers and networks used to monitor and manage inmate phone use and the personnel that manages ICS system use.

Mr. Lipman at page 3 goes on to say that site commissions of 96 percent would result in rates of \$5.00 per minute (based on a cost of \$.20 per minute) and he is correct; but that \$5.00 per minute would be low compared to what some providers are STILL charging on interstate rates using single-payment products that are as high as \$14.99 for a 1 minute call. To appease Mr. Lipman, the FCC clearly needs to lower all the rates...especially single-payment products, to the same \$.25 per minute and cap ancillary fees, which can be as high as \$14.00 just to deposit \$5.00 onto an inmate's account. Once these ancillary fees and single-payment products are reduced to fair levels for the inmate's family, then we will see a significant decrease in cost-recovery (commission) payments to the jails that they can use to offset their costs of offering ICS to the inmates.

By addressing and capping all possible sources of revenue for ICS providers, the FCC will eliminate the "unbounded site commissions" which exist today. At that point, inmate calling and competition will truly flourish. Please contact the undersigned if you have any questions.

Respectfully submitted,

A handwritten signature in black ink that reads "William Pope". The signature is written in a cursive style and is positioned above the typed name and contact information.

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