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VIA ECFS

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

Re: WC Docket No. 12-375, Response to *Ex Parte* Filings of Pay Tel and Martha Wright, *et al*.

Dear Secretary:

Securus Technologies, Inc. ("Securus") hereby responds to the recent filings of Pay Tel Communications, Inc. ("Pay Tel") (posted August 14, 2015) and the Martha Wright Petitioners ("Wright Petitioners") (posted August 17, 2015).

Pay Tel Presentation

In the Ex Parte Presentation appended to its filing, Pay Tel notes a purported "trend of the largest [Inmate Calling Services] providers abandoning small- and medium-sized facilities." It then provides a chart depicting a decrease in the number of facilities that Securus served in 2012, 2013, and 2014 which have "0-99" Average Daily Population ("ADP") and 100-349 ADP. Pay Tel calculates a 20% decrease in the "0-99" category and a 12% decrease in the 100-349 category.

Pay Tel's calculation is out of date. That is, Securus added 112 facilities in 2014 that could not have been counted for the 2014 Mandatory Data Collection. The accurate figures are:

ADP	2012	2013	2014	3-YR AVG.	% Decrease
1-99	796	751	*722*	*756*	*-9%*
100-300	449	437	*444*	*1,330*	*-1%*
Total	1,245	1,188	*1,166*	***1,200***	***-4%***

In 2012-14, Securus served an average of **1,200** correctional facilities that have an ADP of 1-300. It has served an average of **756** correctional facilities that have an ADP of 1-99. By

contrast, as of January 8, 2014, Pay Tel served a total of 184 correctional facilities.[1] Assume that, given Pay Tel's suggested ADP tiers, all of those facilities have an ADP of less than 349. If so, Securus serves **more than 6.5 times** the number of 1-349 ADP facilities as Pay Tel. And **roughly half** of the correctional facilities Securus serves have **an ADP of 300 or less.**

Securus is not "abandoning" any correctional facilities. Should the Commission nonetheless have any apprehension that small facilities will not be served under the new rules, Securus voluntarily commits to serving ***any*** facility of ***any*** size if the rate caps offered in the ICS Industry Proposal − $0.20 per minute for debit calls and $0.24 per minute for collect calls – are adopted.[2]

Wright Petitioners – Memorandum of Coleman Bazelon and Kristin Stenerson

The Wright Petitioners appended a memorandum from their retained economist, Coleman Bazelon, which attempts again to criticize the cost data that Securus submitted in July 2014,[3] pursuant to the Mandatory Data Collection. This attempt, like the previous one, fails.

1. The Memorandum first asserts that Securus's "return on capital is based on the company's purchase price which represents the whole company's value and projected future profits (including excess profits), rather than the assets/equipment used to provide ICS services (p.3)."

Securus already addressed and refuted this assertion. Mr. Bazelon's attempt to disallow recovery on a host of documented Securus costs "ignores all of Securus's actual costs reported in response to the Mandatory Data Collection[.]"[4] To rely on Mr. Bazelon's conclusions would not result in reasonable rates, because it would not enable Securus to "maintain its financial integrity, to

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[1] WC Docket No. 12-375, Pay Tel Communications, Inc.'s Petition for Waiver of Interim Interstate ICS Rates at 2 n.4 (Jan. 8, 2014). Securus is unable to find any more recent publicly filed numbers.

[2] WC Docket No. 12-375, Letter from Securus, Global Tel*Link Corporation, and Telmate LLC to Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly at 2 (Sept. 15, 2014).

[3] *See* WC Docket No. 12-375, Second Further Notice Declaration of Coleman Bazelon ¶¶ 9-15 (appended to Comments of Martha Wright, *et al*. (Jan. 12, 2015)).

[4] WC Docket No. 12-375, Response to Second Further Notice Declaration of Coleman Bazelon and Expert Report of Don J. Wood, FTI Consulting, Inc., at 4 (Jan. 27, 2015) (appended to Reply Comments of Securus Technologies, Inc. (Jan. 27, 2015)) ("FTI Report").

attract capital, and to compensate its investors for the risks assumed."[5] Rates must provide for the "reimbursement [of the carrier's] operating expenses" and allow the carrier to "attract capital, and compensate its investors."[6] Under Mr. Bazelon's flawed analysis, however, investors "should only be able to realize their 11.25% return on about 10.9% of the investments they have made."[7]

Mr. Bazelon disallows eight cost items on the ground that they "are not directly related to the cost of providing ICS service (p.3.)" These items are, however, an expected and often unavoidable cost of corporate existence which the Commission recognizes as recoverable costs.[8] Moreover, his flawed methodology would create the preposterous result that Securus's average, per-minute cost is only $0.019. No ICS carrier possibly could have such low cost of service.

Mr. Bazelon did not repeat in the August 17 Memorandum his attempt to recalculate the return to which he believes Securus is entitled. That attempted recalculation also was incorrect, because he assumed that equity payments to investors are made ***before*** taxes, thus grossly understating the actual cost of those payments.[9]

2. Mr. Bazelon also argues that "carriers included interest expenses that should not be recoverable. Generally, the carrying cost of capital equipment is recovered through the cost of capital carrying charge (11.25% as used by most carriers.) (p.2)." He then asserts that "[r]ecovery of the opportunity cost of capital is captured by the cost of capital charge (which Securus recovers through the 11.25% return on capital) and including these financing costs is an example of recovering twice for the same underlying cost (p.3)."

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[5] *Alabama Cable Telecomms. Ass'n, Comcast Cablevision of Dothan, Inc. v. Alabama Power Co.*, 16 FCC Rcd. 12209, 12232 ¶ 51 (2001) (citing *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 309 n.5 (1989)).

[6] *Id.* ¶ 52.

[7] FTI Report at 4.

[8] *E.g.*, *Connect America Fund*, 28 FCC Rcd. 7123, 7138-39 ¶¶ 31-35, 7143-7146 ¶¶ 45-50 (2013); *Local Exchange Carriers' Rates, Terms and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and Switched Transport*, 12 FCC Rcd. 18730, 18771 ¶ 84 (1997) *Am. Tel. & Tel. Co. Charges for Interstate Tel. Serv.*, 38 F.C.C.2d 213 ¶¶ 41-57 (1972); *Western Union Tel. Co. Complaint and Petition for New and Revised Divisions of Charges for the Landline Handling of International Message Tel. Traffic*, 25 F.C.C. 535 ¶¶ 91-92 (1958).

[9] FTI Report at 4 ("he fails to reflect the fact that equity payments to investors are made with funds after taxes have been assessed on the company's earnings").

These statements are false. Securus did not double-count any cost components. As instructed by the Commission, Securus reported its interest payments, but then created a separate cost-of-equity component, taking out debt expenses from the cost-of-capital calculation. The interest was not double-counted.

In sum, Mr. Bazelon's attempt to discredit Securus's cost data ignores decades of ratemaking precedent and policy as well as common sense. He has failed to show that Securus overstated any of its costs or is otherwise not entitled to a proper return on investment.

Please let me know if you need any further information from Securus. Thank you for your consideration.

Sincerely,

s/Stephanie A. Joyce

Counsel to Securus Technologies, Inc.

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(*All via electronic mail*)