

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)
)
) **WC Dkt. 12-375**
Rates For Interstate Inmate)
Calling Services)

MOTION TO STRIKE

PROHIBITED EX PARTE PRESENTATIONS

The *Martha Wright Petitioners* hereby submit this Motion to Strike the *Ex Parte* Submissions filed by Securus Technologies and Global Tel*Link Corporation during the Sunshine Period in the above-referenced proceeding.¹

Section 1.1203 of the Commission’s rules “prohibits the making of any presentation, whether *ex parte* or not, to decision-making personnel concerning any matter listed on the Commission’s Sunshine Agenda from the day after the Sunshine Agenda is released until the Commission releases the text of a decision or order relating to that matter or removes the item from the Sunshine Agenda.”²

Both Securus and GTL have submitted *ex parte* filings during the Sunshine Period Window, and these submissions must be stricken from the record. GTL should have been well aware of this rule, as it was cited for violating the very same rule just six days before its latest submission.³

¹ See *Ex Parte Submission from Stephanie A. Joyce, Esq.*, Arent Fox LLP, Counsel to Securus Technologies, Inc., filed October 26, 2015 (*Joyce I*). See *Ex Parte Submission from Brian D. Oliver*, Chief Executive Officer of Global Tel*Link Corporation, filed October 27, 2015. See *Ex Parte Submission of Stephanie A. Joyce, Esq.*, Arent Fox LLP, Counsel to Securus Technologies, Inc., filed October 30, 2015 (*Joyce II*).

² *Notice of Violation*, DA 15-1202 (rel. Oct. 21, 2015) (“GTL filed its presentation two business days after the commencement of the sunshine period and the presentation did not qualify for any of the exemptions to the prohibition against making presentations during the sunshine period.”).

³ *Id.*

Both Securus and GTL claim that their submissions are exempt from the specific prohibition on filing *ex parte* submissions during the Sunshine Period contained in Section 1.1203 of the Commission's rules, arguing that their submissions relate to an "emergency in which the safety of life is endangered or substantial loss of property is threatened."⁴

The sole basis of this "emergency" are excerpts from the comment section of news articles available on the Internet. While the *Martha Wright Petitioners* certainly do not support threats against the health or safety of ICS providers and their employees, the random sampling of ***Reddit*** comments is hardly the "emergency" contemplated in the Commission's rules. Mere threats on a comment board do not rise "a party finding itself in an emergency situation."⁵

Instead, it is clear that the submissions by Securus and GTL were submitted to affect the FCC's decision-making process while it finalizes the Second Report and Order adopted on October 22, 2015. Using ***Reddit*** comments to justify the submission of *ex parte* filings that take the Commission to task for "inciting public opinion regarding ICS providers to dangerous levels" and including "incendiary" language in press statements, is a blatant attempt to alter the rules to be contained in the Second Report and Order, and the ICS providers' failed to provide any evidence of a real emergency situation.

As noted above, GTL has already violated the FCC's rules by filing *ex parte* submissions during this very same Sunshine Period, and now, in a last ditch effort, it appears that the two largest ICS providers have created a false "emergency" situation by reviewing comments posted on an anonymous website. Those postings may very well violate the terms of use for Reddit, and they should be reported.⁶ However, Securus and GTL have utterly failed to provide any evidence that these anonymous postings have placed their owners and employees in any "emergency situation" that warrants the use of the *ex parte* exception set forth in Section 1.1204(a)(3).

⁴ See *Joyce II*, pg. 1 (citing 1.1204(a)). See also *Oliver*, pg. 1 (citing 1.1204(a)(3)).

⁵ *In the Matter of Amendment of Subpart H, Part 1 of the Commission's Rules and Regulations Concerning Ex Parte Communications and Presentations in Commission Proceedings*, 2 FCC Rcd 3011, 3017 (1987). See 47 C.F.R. § 1.1204(a)(3) (2015).

⁶ See <https://www.reddit.com/help/contentpolicy>.

In light of these clear violations of the Commission's *ex parte* rules, the FCC must strike the submissions from the record in this proceeding, and refer the matter to the Commission's General Counsel and Enforcement Bureau for review. Section 1.1216 of the Commission's rules set forth several available sanctions such as:

admonishment, monetary forfeiture, or to having his or her claim or interest in the proceeding dismissed, denied, disregarded, or otherwise adversely affected. In any proceeding, such alternative or additional sanctions as may be appropriate also may be imposed.⁷

The FCC must consider the *ex parte* submissions as direct violations of the Commission's rules and take the appropriate action to sanction Securus and GTL to the full extent of its rules.

Respectfully submitted,

By: 

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November 2, 2015

cc (by email):

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Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Commissioner Michael O'Rielly
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Travis LeBlanc, Chief, Enforcement Bureau
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Gigi Sohn, Counselor to Chairman Wheeler
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⁷ 47 C.F.R. §1.1216 (2015).