

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

In the Matter of)	
)	
Rates for Interstate Inmate Calling Services)	WC Docket No. 12-375
)	

**PAY TEL COMMUNICATIONS, INC.’S
PARTIAL OBJECTION TO TELMATE, LLC’S
REQUEST FOR CONFIDENTIAL INFORMATION**

Pay Tel Communications, Inc. (“Pay Tel”), by its attorneys and pursuant to the Protective Order entered in this docket,¹ responds to the request of counsel for Telmate, LLC (“Telmate”)² to obtain access to the unredacted version of the Second Report and Order and Third Further Notice of Propose Rulemaking (“Second Report and Order”)³ released in this proceeding.

Pay Tel does not object to disclosure of its Confidential Information to Telmate provided such disclosure is consistent with and subject to the requirements and protections of the Protective Order. It appears that Telmate’s outside counsel have complied with the minimal requirements necessary to obtain access to Confidential Information under the Protective Order.

¹ WC Docket No. 12-375, Protective Order, DA 13-2434, at ¶ 5 (rel. Dec. 19, 2013) (“Protective Order”).

² Counsel for Telmate filed their Acknowledgments of Confidentiality in this docket on January 20, 2016 “in order to obtain access to the Confidential materials in this proceeding.” See Letter from John R. Grimm, Counsel to Telmate, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 12-375 (Jan. 20, 2016) (attaching Acknowledgments of Confidentiality of four attorneys and one legal assistant). In an email sent by Telmate’s counsel transmitting copies of the executed Acknowledgments of Confidentiality to Pay Tel’s counsel (among others), Telmate stated its intention “to request from the FCC an un-redacted copy of its November 5, 2015 order (FCC 15-136).” See Email from John R. Grimm, Counsel to Telmate, to Marcus W. Trathen, Counsel to Pay Tel (Jan. 20, 2016) (attached hereto as Exhibit A).

³ Second Report and Order and Third Further Notice of Proposed Rulemaking, *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, FCC 15-136 (rel. Nov. 5, 2015) (“Second Report and Order”).

However, Pay Tel notes the irony and inconsistency of Telmate's outside counsel seeking access to Pay Tel's Confidential Information when Telmate itself has objected to Pay Tel's outside counsel obtaining access to Telmate's Confidential Information. Telmate, Securus Technologies, Inc., and Global Tel*Link Corp. each lodged copycat objections to Pay Tel's requests for their Confidential Information back in August and September 2014.⁴ The Wireline Competition Bureau took action on Securus's Objection, denying it.⁵ Securus sought review of the Bureau's Order to the full Commission,⁶ which Pay Tel opposed.⁷ **The Commission has taken no action on Securus's Application for Review, which was filed in October of 2014. The Bureau has taken no action on either GTL's Objection or Telmate's Objection, which were filed in September 2014.**

It would be unfair and prejudicial for the Commission now to grant access to Confidential Information to one party's outside counsel that it has refused to provide to another party's outside counsel, especially given the Commission's unconscionable delay in resolving the pending objections raised by Telmate and others more than a year ago. Given the Commission's failure to address Pay Tel's outside counsel's request for access to Confidential Information for approximately a year and half—coupled with the Commission's refusal to provide an unredacted

⁴ See, e.g., Telmate, LLC, Objection to Disclosure of Confidential Information, WC Docket No. 12-375 (Sept. 12, 2014); Securus Technologies, Inc., Objection to Disclosure of Confidential Information, WC Docket No. 12-375 (Aug. 6, 2014) ("Securus Objection"); Global Tel*Link Corp., Objection to Disclosure of Confidential Information, WC Docket No. 12-375 (Sept. 12, 2014).

⁵ See Wireline Competition Bureau, Order, WC Docket No. 12-375 (Oct. 1, 2014).

⁶ See Securus Technologies, Inc., Application for Review, WC Docket No. 12-375 (Oct. 30, 2014) ("Application for Review").

⁷ See Pay Tel Communications, Inc., Opposition to Securus Technologies, Inc.'s Application for Review, WC Docket No. 12-375 (Nov. 13, 2014).

copy of the Second Report and Order to Pay Tel's counsel,⁸ Pay Tel objects to any disclosure by the Commission of Pay Tel's Confidential Information to Telmate's counsel prior to resolution of the pending objections to Pay Tel's receipt of the same information.⁹

Dated: January 22, 2016

Respectfully submitted,

PAY TEL COMMUNICATIONS, INC.

By: /s/ Marcus W. Trathen
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⁸ Pay Tel's attorneys sought access to the unredacted version of the Second Report and Order but were informed by Bureau staff that they could not "obtain access to the confidential version of the order until the outstanding objections from Securus, *et al* have been resolved." *See* Email from Gil Strobel, Deputy Division Chief, Pricing Policy Division, Wireline Competition Bureau, to Marcus W. Trathen, Counsel to Pay Tel (Nov. 6, 2015) (attached hereto as Exhibit B).

⁹ Pay Tel wishes to make clear that an order at this point granting Pay Tel access to an unredacted copy of the Second Report and Order does not cure the prejudice that has already been caused, nor does it excuse Securus, GTL and Telmate for their failure to abide by the Commission's orders in this docket.

CERTIFICATE OF SERVICE

I hereby certify that on this, the 22nd day of January, 2016, the foregoing Partial Objection to Telmate, LLC's Request for Confidential Information was served via First Class* or electronic** mail on the following persons:

Matthew DelNero **
Chief
Wireline Competition Bureau
Federal Communications Commission
Matthew.DelNero@fcc.gov

Pamela Arluk **
Chief, Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
Pamela.Arluk@fcc.gov

John R. Grimm **
Harris, Wiltshire & Grannis
1919 M Street NW, 8th Floor
Washington, D.C. 20036
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Counsel to Telmate, LLC

Lynne Engledow **
Acting Deputy Division Chief
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
Lynne.Engledow@fcc.gov

By: /s/ Marcus W. Trathen
Marcus W. Trathen

EXHIBIT A

Tim Nelson

Subject: FCC Protective Order Acknowledgements
Attachments: 2016-01-20 Protective Order Acknowledgment.pdf

From: John Grimm [<mailto:JGrimm@hwglaw.com>]
Sent: Wednesday, January 20, 2016 12:15 PM
Subject: FCC Protective Order Acknowledgements

Attached, please find copies of executed protective order acknowledgements which counsel for Telmate, LLC will file with the FCC in docket No. 12-375. We intend to request from the FCC an un-redacted copy of its November 5, 2015 order (FCC 15-136).

Best,

John R. Grimm
Harris, Wiltshire & Grannis, LLP
1919 M St. NW
The Eighth Floor
Washington, DC 20036
202-730-1335

EXHIBIT B

Tim Nelson

From: Gil Strobel <Gil.Strobel@fcc.gov>
Sent: Friday, November 6, 2015 2:38 PM
To: Marcus W. Trathen
Cc: Tim Nelson; Lynne Engledow
Subject: FW: Confidential Version of Order?
Attachments: Confidential Order Acknowledgment of Receipt.docx

Marcus:

Lynne is out of the office today, so she asked me to respond to your email. Anyone who wants a copy of the confidential version of the ICS item must sign the attached acknowledgment. As you can see, however, the acknowledgment requires the signatory to confirm that he or she has signed the Acknowledgment from the *Protective Order* and that any challenge to that Acknowledgment was resolved in his or her favor. Thus, neither you nor Tim can obtain access to the confidential version of the order until the outstanding objections from Securus, *et al* have been resolved. Don Wood can receive a copy of the confidential filing as soon as he submits a signed version of the attached acknowledgment.

Also, please note that we can only provide hard copies of the confidential filing (so we can't email a copy) and we can only provide one copy for each acknowledgment. (And, per the terms of the acknowledgment, the recipient agrees not to make copies of the unredacted version of the item.)

Please let me know if you have any additional questions about the process for obtaining copies of the unredacted version of the ICS item. Thanks. – Gil.

From: Marcus W. Trathen [<mailto:MTRATHEN@brookspierce.com>]
Sent: Friday, November 06, 2015 10:47 AM
To: Tim Nelson <TNELSON@brookspierce.com>; Lynne Engledow <Lynne.Engledow@fcc.gov>
Subject: RE: Confidential Version of Order?

Lynne ... keeping in mind, of course, that Securus, GTL and Telmate have objected to disclosure of their confidential information to Tim and me and, as far as I'm aware, their objections have not been finally resolved the FCC.

Marcus W. Trathen
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From: Tim Nelson
Sent: Friday, November 6, 2015 10:42 AM
To: lynne.engledow@fcc.gov
Cc: Marcus W. Trathen <MTRATHEN@brookspierce.com>
Subject: Confidential Version of Order?

Hi Lynne,

Hope you're well. Please advise regarding the procedure for Marcus Trathen, Don Wood and I (we've all executed the Protective Order's Acknowledgment of Confidentiality) for obtaining a non-public, unredacted version of the ICS Order.

Thanks much!

Tim

Tim Nelson

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Confidentiality Notice:

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