Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Policies and Rules Concerning	)	CC Docket No. 90-313
Operator Service Providers	)	
	)	
Amendment of Policies and Rules	)	CC Docket No. 94-158
Concerning Operator Service Providers	)	
And Call Aggregators	)	
	)	
Petition for Declaratory Ruling	)	WCB Docket No. 09-144
Of Securus Technologies, Inc.	)	

REPLY COMMENTS OF GLOBAL TEL*LINK CORPORATION

Dorothy E. Cukier
Corporate Counsel -- Executive Director, External Affairs
Global Tel*Link Corporation
12021 Sunset Hills Road, Suite 100
Reston, VA 20190
(703) 955-3915

Robert A. Silverman
Bennet & Bennet, PLLC
4350 East West Highway
Suite 201
Bethesda, MD 20814
(202) 371-1500

September 10, 2009

TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY ……..….1

II. GTL's POSTURE AND PROCEDURE ARE MISCHARACTERIZED IN THE INSTANT PROCEEDING…….....3

A. GTL's Background…….……....3

B. GTL Is an Independent Participant in this Proceeding……...4

III. INMATE PHONE SERVICE PLAYS A CENTRAL PUBLIC SAFETY ROLE IN THE CORRECTIONAL FACILITY ENVIRONMENT …….…….…….…….5

IV. PUBLIC SAFETY MUST OVERRIDE COST CONSIDERATIONS……7

A. Correctional Facilities Must Have Complete Control Over the Conduct of Every Inmate Telephone Call…….....8

B. GTL Attempts to Minimize the Detrimental Impact of not Knowing the Identity and Location of Called Parties…….....12

C. The Cost of Inmate Phone Service Directly Reflects the Unique and Highly Specialized Nature of Its Service……...13

V. CALL FORWARDING COMPANIES REQUIRE REGULATORY SCRUTINY…….14

VI. CONCLUSION……...15

EXHIBIT A

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To The Wireline Competition Bureau

REPLY COMMENTS OF GLOBAL TEL*LINK CORPORATION

Global Tel*Link Corporation ("GTL"), by its attorneys and pursuant to 47 C.F.R. § 1.415, hereby submits to the Federal Communications Commission ("Commission" or "FCC") these comments in reply to the comments pertaining to the Petition for Declaratory Ruling filed by Securus Technologies, Inc. ("Securus") on July 24, 2009 ("Securus Petition").[1]

I. INTRODUCTION AND SUMMARY

With these reply comments, GTL first seeks to clarify and correct some misrepresentations that have been stated or reinforced in the instant proceeding about GTL, its procedures regarding its inmate phone service ("IPS"), and related public safety issues. These

[1] *Policies and Rules Concerning Operator Service Providers; Amendment of Policies and Rules Concerning Operator Service Providers And Call Aggregators; Petition for Declaratory Ruling Of Securus Technologies, Inc.*, CC Docket No. 90-313, CC Docket No. 94-158, WCB Docket No. 09-144, Petition for Declaratory Ruling (July 24, 2009).

misrepresentations compel GTL to repair the record by distinguishing and clarifying its own practices and positions as they relate to the issues raised by the Securus Petition.

GTL, like Securus, is an IPS provider ("IPSP") that serves corrections facilities nationwide. In the comment cycle that followed the filing of the Securus Petition, some commenters suggested incorrectly that GTL and Securus agree on key terms as set forth in the Securus Petition or that they share the same call blocking practice. To the contrary, GTL is an independent participant in this proceeding, and its practices are distinct from those of Securus.

As the Commission considers the various economic, social and correctional issues raised by commenters, GTL reminds the Commission of the dual role that inmate phone service providers play with respect to their highly specialized telephone service: (1) the provider of the means to complete calls for inmates and inmates' called parties, and (2) an assistant to correctional facility and law enforcement officials in identifying and investigating criminal activity that may arise from or be furthered by use of an inmate telephone system. Inmates have access to telephonic communications as a privilege, not a right. But for the specially-designed security features that IPSPs provide, inmates would most likely be denied the privilege of making calls from jail.

In light of these dual and sometimes conflicting aspects of IPS, GTL urges the Commission to give the utmost consideration to the vital public safety issues that should be the primary focus of inquiry and which have been trivialized by some in this proceeding. Correctional and law enforcement officials require that the use of IPS systems also ensure safety within their correctional facilities, and prevent and solve crimes through their ability to monitor, record and quickly identify both parties to an inmate call. In order to satisfy these requirements, GTL must navigate the obstacle posed by the operations of call forwarding services. Because

comments in this proceeding have injected the issue of IPS costs and the rates of inmate calls, GTL clarifies these IPS cost issues as they pertain to the primary issue of public safety. As a a provider of a highly specialized telecommunications service, GTL faces numerous financial challenges, including ever-changing security needs of facilities, significant maintenance, service and repair costs, research and development, and the maintaining of high level staffing.

GTL calls on the Commission to investigate and determine how call forwarding companies should be regulated. In light of the fact that these companies are providing a service that has the potential to cause real public safety harm, the need for regulatory scrutiny is critical.

II. GTL's POSTURE AND PROCEDURE ARE MISCHARACTERIZED IN THE INSTANT PROCEEDING

a. GTL's Background

GTL is a provider of inmate communications services and the manufacturer of equipment serving correctional facilities throughout the United States. GTL has served the unique telecommunications needs of the corrections industry for twenty years, evolving from its roots as a traditional public payphone provider to become the leading maker of software-based secure inmate telephone systems. GTL serves correctional facilities of all types and sizes—from minimum to maximum security facilities, and from municipal and county jails housing fewer than ten inmates to maximum security facilities housing tens of thousands of inmates. It also provides communication services to more than 900,000 incarcerated individuals and millions of their family members and friends.

GTL has developed proprietary technology that not only provides inmates access to telephones, but just as importantly, features a unique architecture designed to fulfill the specialized security needs of correctional facilities and law enforcement. To meet the various and sometimes conflicting needs of its diverse customer base, GTL offers a myriad of calling

options, flexible billing platforms and support services that are characteristic of a telecommunications provider, in addition to unique features such as live call monitoring, call recording, and software designed to prevent impermissible three-way calls.

b. GTL Is an Independent Participant in this Proceeding

With respect to the instant proceeding regarding the Securus Petition, GTL has neither jointly filed nor endorsed the Securus Petition in whole or in part, contrary to statements made by commenters in this proceeding.[2] Some comments have aligned Securus and GTL as either coining the same characterization of "call diversion" as defined in the Securus Petition or as having similar or identical "unlawful call blocking practices."[3] Neither of these associations is accurate. In its Petition, Securus merely attached and made reference to comments filed by GTL in an earlier proceeding (WCP/Pricing 03-14). GTL has not provided any support, documentary or otherwise, for Securus's definition of "call diversion scheme." Regarding Millicorp's allegation that GTL has engaged in unlawful call blocking, GTL denies any such allegation of unlawful blocking and refers to the details of its practices, which are discussed further below.

Regardless of whether GTL stands to benefit from the outcome of the instant proceeding, the relief requested in the Securus Petition is sought by Securus alone. GTL's posture in this proceeding, or in any other related proceedings before the Commission or any other governmental body, is an outgrowth solely of its own practices. To the extent the Commission wishes to dispose of the issues raised in the Securus Petition, GTL believes issues of public

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[2] These Reply Comments are the first submission made by GTL in this proceeding.

[3] *See, e.g., In the Matter of Petition for Declaratory Ruling of Securus Technologies, Inc.*, WCB Docket No. 09-144, Comments of Value-Added Communications, Inc. at 1 (August 21, 2009) (suggesting that Securus and GTL both specifically documented "call diversion" as the term is defined in the Securus Petition); and *In the Matter of Petition for Declaratory Ruling of Securus Technologies, Inc.*, WCB Docket No. 09-144, Comments of Millicorp at 8 (August 28, 2009) (making the blanket allegation that Securus and GTL are engaged in "unlawful call blocking practices" without detailing or distinguishing between the two companies' actual practices).

safety, rather than the interests of any particular provider, should govern the Commission's reasoning.

III. INMATE PHONE SERVICE PLAYS A CENTRAL PUBLIC SAFETY ROLE IN THE CORRECTIONAL FACILITY ENVIRONMENT

Inmate Phone Service Providers ("IPSPs") such as GTL serve a dual role with respect to this specialized telephone service: (1) the provider of the means to complete calls for a discrete portion of the public (*i.e.*, inmates as well as persons communicating with inmates, such as family and friends), and (2) an assistant to correctional facility and law enforcement officials in identifying and investigating any possible criminal activity that may arise from or be furthered by the use of an inmate telephone system. As the Commission begins to consider the myriad economic, social and correctional issues raised in this proceeding, it must bear in mind that the successful connection of calls between inmates and outside parties is merely one of the various complex and, at times, conflicting aspects of inmate phone service.

Inmates' access to telephonic communications is a privilege, and not a right.[4] Indeed, the courts have upheld a variety of measures implemented by correctional authorities to restrict access and/or use of inmate phones.[5] The decision to afford inmates the privilege of placing phone calls starts with the policymakers in the states and the counties where the facilities are located. For instance, it was only as recently as 2007 that the Texas state legislature enacted into law the privilege of inmate calling for the Texas DOC.[6] The decision to make this service available is predicated on many factors weighed by policymakers, one of which is typically the

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[4] *Gilday v. Dubois*, 124F3d 277, 293 (1st Cir.1997) ("As a prison inmate, [Plaintiff] can identify no federal or state right-constitutional or otherwise-to utilize a prison phone on his own terms").
[5] *Robbins v. Smith*, 595 F. Supp. 785, 789-90 (D. Mont.1984) (limiting prisoners to one call per week); *Moore v. Janing*, 427.7 Supp.567, 576-77 (D. Nov.1976) (limiting a prisoner's access to phones and call duration).
[6] Texas Senate Bill 1580, 80th Legislative Session, 2007.

promotion of rehabilitation and a reduction in the recidivism rates among inmates. First and foremost, however, correctional facilities must ensure that inmate communications are not used to further criminal enterprises. Prevention of the same can be accomplished through the use of sophisticated systems such as GTL's. But for the provision of specially-designed security features by IPSPs, inmates would most likely be denied the privilege of making calls from jail.

As Securus and several commenters have noted, correctional facilities in most cases procure IPS contracts through a public bidding process in accordance with the state's and/or county's mandatory bidding procedures, as well as the facility's own security policies.[7] The objective of the RFP process is to scrutinize the offerings of multiple IPSPs, which assess the RFP requirements and then rigorously compete to meet and exceed those requirements, including those designed to meet non-telephone related needs that the policymakers find should be funded by the calling privilege. Considerations that can be tied by policymakers to service provision include among others, the funding of in-facility socialization programs, victim's rights organizations, and the care of the facility itself, including its technological needs. Additionally, it is the rule – not the exception – that RFPs require that the phone service be provided to inmates and their called parties at the lowest possible calling rates, and always in accordance with the state's regulatory rules governing rates and tariffs. Ultimately, and as prescribed by the solicitation process, only one IPSP will prevail and be awarded a contract.

The security requirements associated with the provision of IPS are numerous, ranging from monitoring, recording, and blocking of certain prohibited call types, to maintenance and retention of millions of call records and, as further discussed in Section 4(b) herein, blocking

[7] *See* Securus Petition at 3. See also *Petition for Declaratory Ruling Of Securus Technologies, Inc.*, WCB Docket No. 09-144, Comments of CenturyLink (August 31, 2009); and Comments of Millicorp at 3.

calls to parties for which no identity or geographic billing address can be ascertained. As noted by Securus, the IPS is subject to the oversight of the resident correctional authority and the regulatory body with oversight of telecom during the entire term of the service contract.[8] Accordingly, IPSPs are constantly positioned to be a servant to two masters—tied by regulation to successfully connect calls between inmates and their called parties, tied by contract to fulfill the security requirements of their correctional facility hosts.

IV. PUBLIC SAFETY MUST OVERRIDE COST CONSIDERATIONS

The primary and crucial point raised by the Securus Petition is that inmate phone systems exist first and foremost to serve the public safety by enabling correctional and law enforcement officials to to ensure safety within the correctional facility, prevent crime and solve crimes through their ability to **monitor, record and *quickly identify* both parties to an inmate call**. Let there be no mistake: phones in correctional facilities are tools that are routinely used by incarcerated individuals to commit crimes with the involvement of individuals who are not incarcerated. If law enforcement and correctional facilities are stripped of their long-established ability to control the use of inmate telephones and have complete authority to manage access as a means to ensure their effectiveness as an investigative tool, then public safety will inherently be placed in jeopardy. In considering the comments of those who decry the costs of maintaining these systems and resulting call rates, the Commission must not lose sight of the importance of the Commission's longstanding policy to permit correctional facilities to exercise their discretion to determine how to monitor, record and quickly and accurately determine the identities of the parties to an inmate call.

[8] *See* Securus Petition at 3.

a. Correctional Facilities Must Have Complete Control Over the Conduct of Every Inmate Telephone Call

Correctional facilities and law enforcement officials have an essential need to know the identity and location of each person to whom an inmate is speaking.[9] To satisfy this requirement, IPSPs such as GTL design and implement inmate phone systems that allow inmates to: (1) make telephone contact with a known list of persons during specific hours for a prescribed amount of time; (2) to enable the facility to monitor each and every inmate call (3) to identify the inmate making the call; and, (4) identity of the phone number and location of the called party (i.e., the true address associated with the number dialed by an inmate).[10] The necessity for this is clear in countless real life circumstances. When monitoring or recording of an inmate call indicates a crime has been or will be committed, then it is in the interest of public safety to have the most complete information available in the shortest amount of time to prevent or solve the crime. In the face of a clear and present danger, any obstruction of law enforcement's investigative efforts is itself a hazard to public safety. Recognizing the paramount importance of the ability to track inmate calls, one of the nation's largest corrections departments has recently implemented independent guidelines to ensure access to called party data from another source of "nomadic" calling (cellular phones) by requiring individuals who wish to receive calls from inmates on their cell phones to demonstrate that they have service from an established cellular provider, and the delivery to the serving IPSP of accurate, verified, home billing address information for the phone number. Similarly, GTL makes every attempt to

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[9] *See* Letter to FCC from Christopher Epps, Commissioner of the Mississippi Department of Corrections (September 9, 2009); *Department Regulation No. B-08-001*, State of Louisiana Department of Public Safety and Corrections, Corrections Services at 5-6 (January 20, 2009); and Letter from Stanley Glanz, Sheriff, Tulsa County Sheriff's Office (September 10, 2009), attached hereto as Exhibit A.

[10] *See Id*.

complete inmate calls only to parties whose identity and billing address can be verified at the time a potential customer seeks to establish service with the company. However, GTL often encounters circumstances, both pernicious and innocent, that interfere with this effort.

One of the primary obstructions to GTL's ability to determine the true identity and billing address of called parties stem from third party services that permit consumers to obtain a "ghost" phone number that is untraceable to their home or true billing address, which exists solely to forward calls from a correctional facility to another number of the consumer's choosing, thus allowing parties who receive inmate calls to disguise their identity and the ultimate destination of the call from IPSP's systems. In some instances these services are used by consumers who seek to circumvent long distance calling rates that would otherwise be incurred by accepting calls at their home phones or phones associated with their home address. That is, by obtaining a "ghost" number that is in the local calling area of the prison where their friend or family member is incarcerated, but which may be forwarded to a second number that may be thousands of miles away, consumers are able to obtain cheaper, local calling rates while living great distances from the prison. While the service may provide the consumer an economic benefit, the use of these companies' services at the same time creates a gaping hole in an otherwise strictly designed system to monitor, record and, perhaps most importantly, ***locate*** the individuals with whom inmates converse by telephone. Every act of call forwarding, regardless of the service company that provides it or the intent of the customer who has engaged the service, is nevertheless invisible to the eyes of correctional and law enforcement officials and leaves IPSPs without a true record of the location or identity of the called party. Furthermore, call forwarding by a third party entity that is not in privity with the correctional facility interferes with the IPSP's ability to

meet its contractual obligation to provide the correctional facility with the ability to precisely identify the billing address of the person to whom an inmate call is terminated.

In its comments, Millicorp asserts that its ConsCallHome call forwarding service ("CCH"), which it describes as the mere offering of a local telephone number via interconnected VoIP service to the friends and families of inmates, is "not part of the inmate calling service system" and therefore should not be blocked. Though call forwarding services are not directly integrated into IPS systems, they nevertheless intentionally and aggressively introduce themselves into the relationship between IPSPs and facilities unannounced and free from accountability associated with other providers who complete calls from inmate facilities – indeed, it is for some, an advertised feature. Millicorp further asserts that its service is not prohibited call forwarding because each inmate call to a CCH customer is automatically routed, and not diverted, to the CCH customer's designated phone. Unfortunately, there is no means at all provided by CCH (unlike other carriers) that would permit an IPSP to validate or discover in any way, the identity of their customer or the billing address associated with their CCH assigned telephone number. As a form of assurance that this does not affect the security of inmate calls, Millicorp indicates that were a CCH customer to forward a call to an undisclosed location, such an action "would violate Millicorp's own internal policy and would be grounds for Millicorp to terminate its customer's service." While taking action against wayward customers is a commendable undertaking, Millicorp makes the inadequate suggestion that its professed *ad hoc* customer care policy should somehow be accepted by the Commission as a proxy for the correctional facilities inmate call technology as an essential law enforcement tool. While this slow motion, after-the-fact pledge of cooperation may be acceptable to protect the public from prank calls or unwanted solicitations, Millicorp's "security policy" is actually a "tunnel under the

wire" that permits the escape of potentially critical communications without the ability to readily track them, thus undermining a security protocol that has taken decades to create and implement; an exercise that ultimately places the public at risk. Accordingly, in order to satisfy its contractual requirements, GTL must take additional steps, as described below.

If call forwarding service providers wish for their call services to be treated by IPSPs similarly to other carriers who provide accurate customer data to IPSPs in the ordinary course, then they should be subject to the same regulatory obligations as those other carriers and public safety scrutiny applied to IPSPs. Because their provision of alternative phone numbers to called parties of inmates presents a security threat that neither IPSPs nor the correctional facility can be sure to uncover, the third party company should be required to submit billing name and address information to a third party provider just like other carriers, so that IPSPs could verify this information by conducting a LIDB dip, as they do when verifying Local exchange carrier billing status. In the very least, they should be required to keep track of every subscriber that is obtaining the number for purposes of receiving inmate calls, and develop a method to efficiently provide the true identity, telephone number and address of that person to both the IPSP and the facility *before* their subscriber is permitted to receive any calls from a correctional facility. In addition, third-party call enablers must be required to provide notice to their subscribers that for some correctional facilities, use of their call forwarding service is prohibited for security purposes.[11]

[11] *See* Exhibit A.

b. GTL Has Implemented Procedures Designed to Minimize the Detrimental Impact of not Knowing the Identity and Location of Called Parties

In order to address the problem of third party companies obscuring the identity and/or location of called parties, GTL does not engage in wholesale blocking of calls to subscribers of any particular third party services. Rather, when GTL investigates these factors, it ascertains them manually (*i.e.*, uses human-to-human verification) to verify whether a called party is who he or she claims to be, and that the number called is associated with the party's true billing address. GTL does not instruct its representatives to merely block most or all calls from any particular call forwarding service, but it will block calls that GTL has determined involve a called party seeking to bypass the security protections that GTL and the facility have implemented.

In situations where identity and/or address information cannot be *easily* ascertained, GTL nevertheless works with the called party to allow the call to be completed without the risk of a security breach. For instance, military personnel may keep a mobile phone number that is geographically associated with their hometowns, maintain a mailing address for a military post elsewhere in the country, and be stationed at yet another post, sometimes overseas. Similarly, college students who attend schools that are out of their home state typically have non-matching phone numbers and mailing addresses. In these types of cases, GTL works diligently to assist such parties in providing documentation that sufficiently verifies for GTL the information it requires to ensure the security of the calls. While these accommodations are made when necessary, they are the exception, not the rule, and cannot substitute for the established protocol to which other carriers are required to adhere.

c. The Cost of Inmate Phone Service Directly Reflects the Unique and Highly Specialized Nature of Its Service

Comments filed in this proceeding have injected the issue of IPS costs and the rates of inmate calls. GTL seeks to clarify these IPS cost issues as they pertain to the primary issue of public safety. IPS is by no means a traditional telecommunications service. When one party to a call is an inmate, who lacks the same rights as the public, the expectations with respect to communications with that inmate must also be different. When a governmental body decides to grant inmates access to communications services, it is the lawmakers that decide how the service will be provided. Law enforcement experts develop requirements to ensure that calls from inmates do not foster activities that are not permitted, and policymakers and correctional facilities decide how the specially-designed IPS will be made available to inmates.

These requirements are typically disclosed in the correctional facility's RFP. In response, IPSPs merely analyze the requirements and customize their products and services to meet the requirements.

The customization and technologically complicated features and functionalities of the IPS systems are extremely expensive; much more so than plain old telephone service. By policymaker design, the correctional facilities do not actually purchase these systems; rather, they are provided at no cost to the corrections industry and often exist to fund other needs of the corrections facilities that would need to be funded by some other source, such as a direct tax on the public or the cost of other products and services available to inmates.

In order to design, implement and maintain IPS in a manner that achieves the level of security that correctional facilities demand, IPSPs are entitled to a just and reasonable return. The security needs of facilities are always changing as inmates learn ways to circumvent the current security features. The maintenance costs of ISPs are significant, and they require

ongoing, costly research and development. Software to operate the system must be able to record and monitor calls in real time and permit facilities to uncover not only impermissible contacts, but a host of other illicit behavior, such as gang activity and fraudulent activity involving stolen identities/credit cards. At the same time, each system requires service, maintenance, repair, on site administrators, and truck rolls, among other things.

IPSPs also have high level staffing needs, including engineers, expert witnesses to participate in proceedings when IPS use has implicated persons involved in criminal activity, and staff to train facility personnel. Additionally, IPSPs must cover the cost of being regulated telecommunication entities and comply with filing obligations, fee obligations, and tax obligations of for-profit enterprises, and they are subject to rate oversight at both the federal and state levels. Overall, the cost of service provision is static or increasing, but it never decreases. IPSPs must always endeavor to cover these costs in spite of outside influences on what is charged.

V. CALL FORWARDING COMPANIES REQUIRE REGULATORY SCRUTINY

GTL is the holder of Certificates of Public Convenience and Necessity, business licenses and tariffs in every state in which it operates where such documentation is required. It also maintains a tariff with the FCC for its interstate and international call services. GTL pays taxes on the revenue it generates from the provision of inmate calling services, and dutifully complies with all the filing, reporting and payment requirements associated with being a regulated entity in the provision of telecommunications services. In accordance with its various certifications and licenses, it subjects itself to the jurisdiction of the respective agencies that issue them. Such regulation is not without cost to GTL, or any other IPSP that similarly complies with the regulatory restrictions under which they operate.

Insofar as call forwarding companies are marketing telecommunications services to the public for a fee, it would follow that they, too, should be subject to agency jurisdiction and regulation. To the extent that these companies have managed to sell their services on the periphery of the regulated telecommunications industry, the suggestion bears raising that they be scrutinized to determine their appropriate regulatory characterization and examined to ensure that they are in compliance with the mandatory obligations associated with whatever characterization the proper authority applies. To the extent that the examination produces a classification of "interconnected VoIP" as the telecommunications characterization most befitting this offering, each and every company should make restitution for any contributions to the Universal Service Fund that may be absent, and any other mandatory licensing, reporting or filing fee that applies to all its similarly classified industry compatriots. If, in fact, these companies that generate revenue from the sale of telecommunications services to the public are subject to no oversight from any regulatory body, then the consumers who purchase their services are without a set of guidelines by which they can hold the company accountable. Consumers lack an important avenue for redress should the unregulated company harm them, and the companies themselves are free to operate without parity in their industry, thereby creating a disadvantage for all those who remain responsible and accountable for their business actions. Especially in light of the fact that call forwarding companies are providing a service that has the potential to cause real public safety harm, they must be scrutinized from a regulatory perspective.

VI. CONCLUSION

GTL reminds the Commission that GTL is an independent participant in the instant proceeding with practices that are distinctive from those described in the proceeding. As the

Commission considers the various issues raised by the Securus Petition and commenters thereon, GTL reminds the Commission of the dual interests that IPSPs such as GTL must serve—connecting inmate calls and assisting correctional facilities and law enforcement with criminal investigations—but it also emphasizes that public safety must take priority over cost concerns. Finally, because call forwarding companies provide a service that has the potential to cause real public safety harm, GTL requests that the Commission investigate and determine the appropriate regulatory scrutiny for these companies.

Respectfully submitted,

GLOBAL TEL*LINK CORPORATION

By: _____/s/_____

Robert A. Silverman
Bennet & Bennet, PLLC
4350 East West Highway
Suite 201
Bethesda, MD 20814
(202) 371-1500

Dorothy E. Cukier
Corporate Counsel
Executive Director, External Affairs
Global Tel*Link Corporation
12021 Sunset Hills Road, Suite 100
Reston, VA 20190
(703) 955-3915

Its Attorneys

Dated: September 10, 2009

4852-9509-7604, v. 1

EXHIBIT A

STATE OF MISSISSIPPI

DEPARTMENT OF CORRECTIONS

CHRISTOPHER B. EPPS
COMMISSIONER

September 10, 2009

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

RE: WC DOCKET NO. 09-144
IN THE MATTER OF SECURUS PETITION FOR DECLARATORY RULING

Dear Ms. Dortch:

The Mississippi Department of Corrections ("MS DOC") files this letter in association with the Reply Comments of Global Tel*Link Corporation ("GTL") in the above-referenced proceeding, with a respectful, yet firm, request that the Wireline Competition Bureau pay explicit attention to the serious security issue raised by the activities of call-forwarding services, and defer the consideration of this matter to the Public Safety Bureau, if such deference is deemed appropriate in order to achieve the proper resolution. MS DOC is deeply concerned that the matter as raised will be viewed and decided as one strictly of cost, thereby dismissing the true nature of the problem, which is safety.

The MS DOC is responsible for the safety of the inmates it houses, the personnel it employs, and the public at large. In making telephone communications available to inmates, MS DOC must ensure that all of these safety concerns are addressed. MS DOC must maintain the tightest control over the communications between inmates and the parties they are permitted to contact, and it does so by partnering with an inmate phone service provider that has designed and implements an inmate phone system that permits MS DOC to monitor each and every inmate call. Without such a specialized phone system, inmates could and will make prohibited contacts with persons the MS DOC is charged with protecting, *e.g.*, victims, witnesses, judges, jurors, and criminal compatriots. Inmates housed in MS DOC's correctional system are permitted to make telephone contact with a known set of persons for a prescribed length of time during specific hours of the day. Any service that causes this pointedly-designed calling process to be subverted creates a threat to the safety that MS DOC is required to ensure, and presents unjustifiable hurdles to the ability of MS DOC to permit inmate calling.

MS DOC is currently battling the growing problem of contraband cell phones inside its facilities. The illegal use of cell phones by inmates circumvents the inherent security features of the inmate phone service platform, and enables inmates to complete prohibited contacts with the public, often with criminal and deadly outcomes. In 2008, MS DOC confiscated 2214 illicitly obtained cell phones from its inmates, at great expense and with increasing frustration. Between January 1st and June 30, 2009, that number is already 1954 contraband cell phones. As MS DOC invests its time and resources to quash this insidious and highly dangerous problem, the last thing it needs is to encounter the same problem with its sanctioned phone system.

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FAX: (601) 359-5624

MS DOCS requires GTL to implement and enforce contractually-prescribed calling rules that meet the MS DOC's security requirement to ascertain the true identity and verified address of every called party. The services provided by call-forwarding companies undermine those efforts entirely, creating an environment that is rife for abuse, is contrary to the public safety interests upon which our regulations are based and entirely defeat the necessary safety requirements with which we are obligated to comply. GTL is required to prohibit the completion of calls to numbers that are not associated with the billing address of the called party, and it makes every effort to identify such calls and deny the recipient the ability to open an account. Presently, GTL tackles this problem in a manner that is as focused and as non-discriminatory as possible – MS DOCS does not care which call-forwarding service a consumer attempts to use, but will endeavor to block any call that seeks to evade the basic elements of call security at its facilities. .

GTL should not be constrained in its effort to protect the security interests that MS DOCS deems paramount by an outcome in this proceeding that subordinates the interests of public safety to a unilateral focus on the cost of an inmate privilege, *i.e.*, phone calls. The impact of such a ruling would extend beyond the inmate phone industry and directly impact the security obligations of correctional facilities. Therefore, we respectfully suggest that the Federal Communications Commission must consider this issue within the scope of the magnitude of the security problems that it will *create*, and issue a ruling that permits correctional facilities to direct inmate phone service providers to block the use of call-forwarding services. Call-forwarding services have absolutely no contractual relationship with correctional facilities, and consequently, none of the security obligations that are imposed on inmate phone service providers. If call-forwarding services are to be allowed to continue offering the ability to circumvent the call tracking capabilities of inmate phone service systems, then they must be required to provide detailed account information to both the correctional facility and its contracted inmate phone service provider *at the time a call is attempted* to a call-forwarding customer, just as every other carrier must, for the purpose of maintaining the integrity of the security features that we rely upon for every inmate call.

In the absence of call blocking, or in the absence of requirements to make available to correctional facilities (through their inmate phone providers) accurate and complete billing information related to the recipients of inmate calls *at the time the call is attempted*, the damage to our security practices will already have been done. Suggesting that after-the-fact solutions (such as subpoenas) to determine the identity of call recipients are sufficient safeguards is patently absurd, as they do nothing to prevent crime; only investigate them after the fact, when crimes have already been committed and people may have already been hurt. Call-forwarding companies should be prohibited, in the first instance, from providing services to called parties of inmates, but at the very least, be required to provide inmate phone providers with access to real-time information about requested subscriptions and be required to deny those subscriptions at the direction of the correctional facility, in the discretion of the facility.

MS DOC respectfully requests that the Commission provide this issue with all the deference it deserves, as an issue beyond the purview and jurisdiction of the Bureau where it is lodged.

Respectfully submitted,

Christopher B. Epps

Christopher B. Epps
Commissioner of Corrections

STATE OF LOUISIANA
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS
CORRECTIONS SERVICES

Department Regulation
No. B-08-001

20 January 2009

CLASSIFICATION, SENTENCING AND SERVICE FUNCTIONS
Offender Related Services
Telephone Use and Policy on Monitoring of Calls

1. **AUTHORITY:** Secretary of the Department of Public Safety and Corrections as contained in Chapter 9 of Title 36.

2. **REFERENCES:** ACA Standards 4-4271, 4-4272, 4-4275 and 4-4497 (Adult Correctional Institutions) and Department Regulation Nos. B-05-001 "Disciplinary Rules and Procedures for Adult Offenders," B-08-005 "Faith-Based Programs and Services," B-08-018 "Effective Communication with the Hearing Impaired" and the Louisiana Register dated January 20, 2009.

3. **PURPOSE:** To establish the Secretary's policy regarding the use of telephones by offenders and the monitoring of offender telephone calls at all adult institutions.

4. **APPLICABILITY:** Deputy Secretary, Chief of Operations, Undersecretary, Assistant Secretary, Regional Wardens and Wardens. Each Warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for implementing and notifying all affected persons of its contents.

5. **POLICY:** It is the Secretary's policy that uniform telephone procedures, including the ability to monitor and/or record offender telephone calls to preserve the security and orderly management of the institution and to protect the public safety, shall be adhered to at all institutions. Each institution will offer offenders (including the hearing and/or speech impaired) reasonable access to telephone communication without overtaxing the institution's ability to properly maintain security and to avoid abuse of this privilege on the part of any offender. Further, offenders with hearing and/or speech disabilities and offenders who wish to communicate with parties who have such disabilities shall be given access to appropriate auxiliary aids and services. See Department Regulation No. B-08-013 "Effective Communication with the Hearing Impaired" for additional information.

6. **PROCEDURES:**

   A. General

      1) Each offender shall be assigned a personal identification number (PIN) which must be used when placing outgoing telephone calls; the PIN will be the offender's DOC number.

      2) Each offender will provide his assigned institution a master list of up to 20 frequently called telephone numbers inclusive of all family, personal, and

legal calls. Each offender's outgoing telephone calls shall be limited to those telephone numbers he has placed on his master list. Changes may be made to the master list at the discretion of the Warden, but no less than once each quarter. These changes may be entered by the contractor or by appropriately trained institutional staff.

3) For new offenders, PIN and master list numbers shall be entered into the telephone system upon intake at the Reception and Diagnostic Centers.

4) Upon the request of a telephone subscriber, the institution shall block a telephone number and prevent the subscriber from receiving calls from an offender housed in the facility. To accomplish a block of a particular number for all state facilities, the institution should contact the contractor to request that a universal block be put into place.

B. Dormitory Housing (Minimum or Medium Custody)

1) Personal or Family Calls (routine)

Collect telephone access should be available on a relatively non-restricted basis. The specific hours in the various living areas at the individual institutions shall be established by the Warden of each institution. The Warden shall communicate the telephone schedule to the offender population. A time limit should be established.

2) Personal or Family Calls (emergency)

Requests for access outside of normally scheduled hours may be made through the dormitory officer, shift supervisor or other appropriate staff who decides if the justification the offender presents warrants the request. That decision is then logged. No frequency for this type call is established as the severity and duration of the emergency may vary.

3) Legal Calls

The Warden shall establish a schedule for legal calls. Offenders are generally able to place legal calls during the lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). The Warden shall establish an alternate procedure if this is not adequate.

C. Cellblock Housing (Maximum Custody)

1) Personal or Family Calls (routine)

Collect telephone access is generally located in the cellblock lobby. (In those situations where the telephone is on the tier, the offender may be

allowed access during the shower or exercise period.) Lobby placement may restrict offender access. Therefore, posted policy may limit routine personal calls for offenders assigned to cellblocks. Access may vary by offender classification status. A time limit should be established.

2) Personal or Family Calls (emergency)

In all subclasses of maximum custody, the offender is required to request consideration for this type call from the Warden's designee (shift supervisor, unit major, or program staff) who decides if the justification the offender presents warrants the request. That decision is then logged. No frequency for this type call is established as the severity and duration of the emergency may vary.

3) Legal Calls

The Warden shall establish a procedure for placing legal calls on a reasonable basis during "normal office hours." Each housing unit shall maintain a legal telephone log for the purpose of monitoring the number of legal calls made by offenders on a weekly basis.

D. Incoming Calls

1) Personal or Family calls (routine)

Messages are not accepted or relayed on a routine basis for any offender.

2) Legal Calls

Offenders may be given notice that their attorney has requested contact. Complete verification is required prior to processing. If minimum or medium custody, the offender may call from the dormitory during lunch or after work. If maximum custody, the offender may be allowed to call during "normal office hours" at a time which does not interfere with orderly operation of the unit.

E. Emergency Messages/Important Telephone Calls Based Upon Department Regulation No. B-08-005 "Faith-Based Programs and Services"

1) Emergency messages concerning a serious illness, injury, death or other family crisis, etc. shall be delivered to an offender by the Chaplain or other person designated by the Warden. Exceptions to this paragraph shall only be granted by the Warden or designee.

2) Notification to an offender's emergency contact (or other appropriate person as the situation warrants) of an offender's serious illness, injury or death

shall be made in a timely manner by the Chaplain or other person designated by the Warden.

3) Chaplains are allowed discretion to make telephone calls for offenders for the purposes of dealing with emergency matters.

4) See Department Regulation No. B-08-005 "Faith-Based Programs and Services" for additional information.

F) Monitoring

1) Offenders shall be put on notice of the following:

a. Telephone calls in housing areas are subject to being monitored and/or recorded and that "use" constitutes "consent;"

b. It is the offender's responsibility to advise all other parties that conversations are subject to being monitored and/or recorded;

c. A properly placed telephone call to an attorney will not be monitored and/or recorded unless reasonable suspicion of illicit activity has resulted in a formal investigation and such action has been authorized by the Secretary or designee.

2) The telephone system will normally terminate a call at the end of the authorized period (normally 15 minutes); however, the Warden or designee may authorize calls of a longer duration as circumstances warrant.

3) The system shall automatically broadcast recorded messages indicating that the telephone call is originating from a correctional facility.

4) Offenders shall not be allowed access to employee home telephone numbers and shall not be allowed to call any staff member of the Department.

5) Each Warden shall advise their offender population of the proper way to place a legal call.

6) Only personnel authorized by the Warden may monitor offender telephone calls. Information gained from monitoring calls which affects the security of the institution or threatens the protection of the public will be communicated to other staff members or other law enforcement agencies. Telephone calls to attorneys may not be routinely monitored (see Section 6.F.1)c.; staff shall immediately disconnect from any offender telephone call if it appears that is the case. All other information shall be held in strict confidence.

7) Offenders being processed into the system through the Reception and Diagnostic Centers shall be required to "consent" in writing that their telephone calls are subject to being monitored and/or recorded. A copy of this "consent" shall be placed in the offender's Master Prison Record.

8) Each institution's orientation manual shall include the information contained in this regulation as a means to notify the offender population of its contents and verbal notification shall be given during the orientation program. A sign shall be posted at each offender telephone which states the following information:

ATTENTION

This telephone has been electronically programmed to monitor and/or record telephone calls. By using this telephone, you consent to the monitoring and/or recording of your conversation, except for properly placed legal calls.

Department of Public Safety and Corrections
Department Regulation No. B-08-001

G. Remote Call Forwarding:

1) Remote Call Forwarding (RCF) is a mechanism by which offenders may employ a local telephone number that automatically forwards the telephone call to a pre-selected number generally located out of the local calling area code or long distance. RCF in essence is an automated 3-way call.

2) RCF is also known as automated call forwarding or PBX call forwarding. Use of this automated and remote mechanism represents significant security risks for several reasons. The telephone call terminated number (the end destination of the call) cannot be readily identified or verified. This number is not a traditional telephone number located at a residence, business or other such location but merely a number within the telephone switching equipment local to the facility where the offender is housed.

3) RCF initiated calls to an unidentified terminated number can and are being easily forwarded to unauthorized telephones. This forwarding is done through the normal 3-way call hook ups. This in fact negates the security mechanisms achieved by the requirement of approved telephone lists. Safeguards to prevent calls to victims, to blocked or restricted numbers or to prevent other unauthorized call activities are defeated by the use of an RCF number.

4) RCF usage creates an opportunity to conduct criminal or illegal or unauthorized activities since the end call location is not readily being

identified, verified or its actual location known. This affords untold opportunity for offenders to engage in potential scams, to call victims, to facilitate escape attempts and to engage in other conduct representing significant security risks to the facility.

5) The offender population shall be put on notice that all third-party telephone calls, including RCF calls, are strictly prohibited and such activity will result in appropriate disciplinary action.

6) Wardens shall develop a monitoring system to analyze the frequency of local calls. High frequency may indicate RCF utilization. When RCF calls are discovered, a system wide block of the number shall be initiated pursuant to Section 6.A.4) of this regulation.

s/James M. Le Blanc
Secretary

This regulation supersedes Department Regulation No. B-08-001 dated 20 December 2003.

TULSA COUNTY SHERIFF'S OFFICE

500 South Denver
Tulsa, Oklahoma 74103-3832
www.tcso.org

Stanley Glanz
Sheriff

Brian Edwards
Undersheriff

September 10, 2009

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

Re: WC Docket No, 09-144; In the Matter of Securus Petition for Declaratory Ruling

Dear Ms. Dortch:

Tulsa County, OK was notified by Global Tel*Link Corporation ("GTL") of the Petition for Declaratory Ruling filed by Securus to request the ability to block calls from inmates to persons who subscribe to services that sell local telephone numbers. The fact that this is permitted to take place without Tulsa County or GTL having the ability to prevent such calls from completing is a tremendous liability in terms of safeguarding the public.

GTL works with Tulsa County's correctional facility to provide inmates with the privilege of making calls to friends and family and others for whom the inmate is approved for contact. The inmate phone system is specially designed to create accounts for called parties, and record and monitor calls, so that Tulsa County has control over inmate communications. This control is critical to ensuring that calls are not used to perpetrate criminal activity or harass or threaten any person with whom an inmate is denied contact. The purchase of telephone numbers from call forwarding companies, which occurs outside the security requirements of the inmate phone service contract, erodes the protections built into the inmate phone system and places the public in jeopardy. The purchase of telephone numbers through the subscription services of call forwarding companies makes it nearly impossible Tulsa County and GTL to know the location of the called party in the event that a call reveals activity that requires investigation. This breach of security features makes the inmate phone system far less effective.

Tulsa County requests that the FCC step in and direct the way these companies are permitted to offer these services so that inmate phone service can continue to be provided in accordance with the strict security requirements necessary to make inmate phone service available.

Sincerely,

Stanley Glanz
Sheriff