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July 3, 2012

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By ECFS

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

CALIFORNIA
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WASHINGTON D.C.
WISCONSIN

RE: *Implementation of the Pay Telephone Reclassification and
Compensation Provisions of the Telecommunications Act of 1996
Petitioners' Alternative Rulemaking Proposal*
CC Docket No. 96-128

Dear Ms. Dortch:

Martha Wright, *et al.* ("Petitioners"), by and through her attorneys, respectfully submit into the record of the above-referenced proceeding this Reply in response to the Ex Parte Submission of Securus Technologies, Inc., on July 2, 2012 (the "Securus Response"). In light of the several misstatements contained in the Securus Response, the instant Reply is being submitted.

In particular, the Securus Response contained several arguments in rebuttal to the information supplied by Petitioners on June 28, 2012, regarding the ongoing rate proceeding before the New Mexico Public Regulation Commission. The Petitioners' June 28, 2012 submission included a Hearing Transcript which contained statements that are highly relevant to this long-pending proceeding.

Petitioners noted that counsel for Securus stated in the public hearing that she did not believe any payphone-only facilities still existed.¹ Petitioners also noted that the Hearing Commissioner highlighted two points that Petitioners have been making since this case commenced in 2000, "namely that: (1) inmates have no choice in the selection of their telephone service provider, and (2) that the rates charged by the inmate telephone service providers to the inmates' families are not only widely divergent among the various states, but also among facilities in the same state."² Finally, Petitioners noted that the contract between Securus and the Department of Corrections had been amended four times since it was signed in 2007, with two of the most recent amendments being executed in 2012. Petitioners supplied the original contract and the amendments with the submission.³

¹ *Petitioners Ex Parte Submission*, June 28, 2012, pg. 2.

² *Id.*, pg. 3.

³ *Id.*, Exhibit E, pgs. 183-259.

Securus argues in its Response that its statements regarding the dearth of payphone-only facilities was only relevant to the State of New Mexico and the 24 contracts that Securus currently has in that state.⁴ Further, Securus also provides that “the state of the industry has changed, and correctional authorities are permitting prepaid calling with more regularity.”⁵

To the extent that this is an accurate characterization of Securus’ on-the-record testimony in New Mexico, and the current state of the inmate telephone service industry in general, it also illustrates the fundamental deficiency present in this proceeding since its inception. Specifically, Securus and the other inmate telephone service providers have steadfastly resisted calls for the submission of up-to-date, detailed cost data with respect to their services. This was exhibited most recently by Securus electing to respond to a specific request by the Commission’s staff by only submitting a one-page letter, which summarily stated its costs had increased, but provided no supporting evidence.⁶ In sum, if Securus wishes to have its comments taken in the correct context, it must actually provide the context (i.e., up-to-date, detailed cost data).

In addition, Securus states that Petitioners “have never supported a tiered approach” in the proceeding,⁷ and cites several recent submissions by Petitioners. However, this statement is patently false. Incredibly, three of the submissions cited by Securus in its Response contained Petitioners’ Talking Points, which actually stated:

Petitioners agree with Pay Tel Communications that governing legal standards could be met by a **tiered rate structure**, i.e., rates somewhat higher than the requested benchmarks for facilities with fewer than 25 prisoners, which have higher costs; the benchmark rates for facilities between 25 and 250 prisoners; and lower rates for larger facilities, which have higher traffic volumes and lower service costs. Inmate rate relief also would reduce the economic incentive to use contraband cell phones in prison.

Thus, either Securus did not completely review the submissions to which it cited before submitting the Response, or Securus is attempting to mislead the Commission.

In addition, with respect to its contract with the Florida Department of Corrections, Securus states that “only the most recent amendment in April 2012 affected inmate rates.”⁸ Securus also states that Petitioners only provided the most recent amendment. *Id.* As with its characterization with respect to Petitioners acceptance of tiered rates, Securus either did not completely review Petitioners’ June 28th submission, or it is attempting to mislead the Commission.

⁴ *Securus Response*, pg. 2.

⁵ *Id.*

⁶ *See Ex Parte Submission of Securus Technologies, Inc.*, filed October 11, 2011.

⁷ *Securus Response*, pg. 1, nt. 1 (citing four submissions made on behalf of the Petitioners).

⁸ *Securus Response*, pg. 2.

In particular, Exhibit E to Petitioners' June 28th submission contained the original contract, and each of the four amendments.⁹ Within Exhibit E, the fourth amendment executed in April 2012 was first, and then the remaining amendments and the underlying contract followed. The version available on the Commission's ECFS database contains each of the amendments and the underlying contract,¹⁰ so it is unclear why Securus would state that only the fourth amendment was provided.

More important, however, is Securus' statement that "only the most recent amendment in April 2012 affected inmate rates."¹¹ Attached hereto as Exhibits A through D are the excerpts from the contract and amendments dealing with inmate rates, which, as noted, were also provided by Petitioners in its June 28th submission.

Specifically, Exhibit A contains Section III.A of the original contract, which provided inmate rates under the categories of Collect Calls and Prepared Calls. The first amendment, Exhibit B, inserted a new rate category, Coin Operated Telephones. The second amendment, Exhibit C, amended the rate table for Coin Operated Telephones to include rates for "1+Inter-lata", "1+Intra-lata" and "1+Interstate" with rates of \$1.20 "to connect" and then \$0.20 per five minute increment. Finally, the fourth amendment, executed in April 2012 and attached hereto as Exhibit D, changed the rates in each of the phone call categories specified under Section III.A of the agreement. Thus, Securus was simply wrong to state that Petitioners only provided the fourth amendment to the Florida DOC agreement, and that only the fourth amendment "affected inmate rates."

Finally, Securus notes that it has met with several public interest groups previously regarding this matter.¹² It is important to note, however, that Securus declined the Petitioners' offer to hold discussions in September 2011. Rather than being willing to meet to determine if the parties could reach a consensus on any of the issues in this proceeding, Securus declined and instead submitted its October 2011 letter referenced above. Petitioners, and the undersigned counsel, remain ready and willing to meet with Securus should they wish to discuss any matter in this proceeding.

In light of the foregoing, the Petitioners respectfully request that the Commission follow the order from the D.C. Circuit Court, act "with dispatch", and grant the Petitioners' 2007 Alternative Proposal.

⁹ See Exhibit E, pgs. 183-259.

¹⁰ <http://apps.fcc.gov/ecfs/document/view?id=7021980001> (last visited July 3, 2012).

¹¹ *Securus Response*, pg. 2.

¹² *Securus Response*, pg. 2.

Respectfully submitted,



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Counsel for Martha Wright, et al.

Attachments

cc (via electronic mail) :

Chairman Julius Genachowski
Michael Steffen, Legal Advisor to Chairman Genachowski
Commissioner Robert McDowell
Christine Kurth, Legal Advisor to Commissioner McDowell
Commissioner Mignon Clyburn
Angela Kronenberg, Legal Advisor to Commissioner Clyburn
Commissioner Jessica Rosenworcel
Priscilla Delgado Argeris, Legal Advisor to Commissioner Rosenworcel
Commissioner Ajit Pai
Nicholas Degani, Legal Adviser to Commission Pai
Sean Lev, General Counsel
Julie Veach, Deputy General Counsel
Victoria Goldberg – Acting Chief, Pricing Policy Division, Wireline Competition Bureau
Deena Shetler – Associate Bureau Chief, Wireline Competition Bureau
Nicholas Alexander – Deputy Division Chief, Pricing Policy Division, Wireline Competition Bureau
Pamela Arluk – Assistant Division Chief, Pricing Policy Division, Wireline Competition Bureau
Marcus Maher – Office of General Counsel
Raelynn Remy – Office of General Counsel
Lynne Engledow, Wireline Competition Bureau
Michele Berlove, Wireline Competition Bureau

EXHIBIT A

affirmative obligation to assist in the smooth transition of Contract services to the subsequent Contractor, including the provision of documents and information not otherwise protected from disclosure by law.

III. COMPENSATION

A. Payments and Invoices

The Department established a fixed “to connect” surcharge for service delivery of its ITS. The “to-connect” surcharge established by the Department shall be utilized by the Contractor for local, local extended area calls, and for all calls on the North American Dialing Plan, including interlata, intralata, and interstate calls. There shall be no additional rate per minute charges allowed for local coin and local extended area calls.

COLLECT CALL SURCHARGE:

The Contractor shall provide inmate telephone COLLECT CALL service at the following surcharges and rates:

TYPE OF CALL	“TO CONNECT” SURCHARGE	RATE PER MINUTE
Local Coin	\$.50	\$0.00
Local Extended Area	\$.50	\$0.00
Inter-lata	\$1.20	\$0.04
Intra-lata	\$1.20	\$0.04
Interstate	\$1.20	\$0.04

PREPAID CALL SURCHARGE:

The Contractor shall provide inmate telephone PREPAID CALL service at the following surcharges and rates:

TYPE OF CALL	“TO CONNECT” SURCHARGE	RATE PER MINUTE
Local Coin	\$.50	\$0.00
Local Extended Area	\$.50	\$0.00
Inter-lata	\$1.02	\$0.04
Intra-lata	\$1.02	\$0.04
Interstate	\$1.02	\$0.04

INTERNATIONAL CALL SURCHARGE AND RATES PER MINUTE:

Surcharge and Rates per Minute for International Calls (Collect and Prepaid) shall not exceed the maximum rate allowed by the appropriate regulatory authority during the time the call is placed.

Charges for calls shall include only the time from the point at which the called party accepts the call and shall end when either party returns to an on-hook condition or until either party attempts a hook flash. There shall be no charges to the called party for any setup time for either collect or prepaid calls.

EXHIBIT B

CONTRACT AMENDMENT BETWEEN
THE DEPARTMENT OF CORRECTIONS
AND

SECURUS TECHNOLOGIES, INC., THROUGH ITS WHOLLY OWNED SUBSIDIARY,
T-NETIX TELECOMMUNICATIONS SERVICES, INC.

This is an Amendment to the Contract between the Florida Department of Corrections ("Department") and T-Netix Telecommunications Services, Inc. ("Contractor") to provide Statewide inmate telephone services.

This Amendment:

- Revises **Section III., A., COMPENSATION** to revise the COLLECT CALL SURCHARGE table, to revise the PREPAID CALL SURCHARGE table and to insert the COIN OPERATED TELEPHONES table; and
- Revises **Section IV., B. Department's Contract Administrator.**

Original contract period:

September 25, 2007 through September 24, 2012

In accordance with Section V., Contract Modifications; the following changes are hereby made:

1. **Section III., A., COMPENSATION**, is hereby revised to revise the COLLECT CALL SURCHARGE table, to revise the PREPAID CALL SURCHARGE table and to insert the COIN OPERATED TELEPHONES table read:

III. COMPENSATION

A. Payments and Invoices

The Department established a fixed "to connect" surcharge for service delivery of its ITS. The "to-connect" surcharge established by the Department shall be utilized by the Contractor for local, local extended area calls, and for all calls on the North American Dialing Plan, including interlata, intralata, and interstate calls. There shall be no additional rate per minute charges allowed for local coin and local extended area calls.

COLLECT CALL SURCHARGE:

The Contractor shall provide inmate telephone COLLECT CALL service at the following surcharges and rates:

TYPE OF CALL	"TO CONNECT" SURCHARGE	RATE PER MINUTE
Local Extended Area	\$.50	\$0.00
Inter-lata	\$1.20	\$0.04
Intra-lata	\$1.20	\$0.04
Interstate	\$1.20	\$0.04

PREPAID CALL SURCHARGE:

The Contractor shall provide inmate telephone PREPAID CALL service at the following surcharges and rates:

TYPE OF CALL	"TO CONNECT" SURCHARGE	RATE PER MINUTE
Local Extended Area	\$.50	\$0.00
Inter-lata	\$1.02	\$0.04
Intra-lata	\$1.02	\$0.04
Interstate	\$1.02	\$0.04

COIN OPERATED TELEPHONES:

The Contractor shall provide inmate telephone COIN OPERATED TELEPHONE service at the following surcharges and rates:

TYPE OF CALL	"TO CONNECT" SURCHARGE	RATE PER MINUTE
Local Coin	\$.50	\$0.00
Local Extended Area	\$.50	\$0.00
Inter-lata	\$1.20	\$0.04
Intra-lata	\$1.20	\$0.04
Interstate	\$1.20	\$0.04

2. **Section IV., B. Department's Contract Administrator**, is hereby revised to read:

B. Department's Contract Administrator

The Contract Administrator for this Contract will be:

Robert E. Staney, Chief
Bureau of Procurement & Supply
Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399-2500
Phone: (850) 488-6671
Fax: (850) 922-5330
Email: staney.bob@mail.dc.state.fl.us

The Contract Administrator will perform the following functions:

1. Maintain the official Contract file;
2. Process all Contract amendments, renewals, and termination of the Contract; and
3. Maintain the official records of all formal correspondence between the Department and the Contractor.

EXHIBIT C

CONTRACT AMENDMENT BETWEEN
THE FLORIDA DEPARTMENT OF CORRECTIONS
AND

SECURUS TECHNOLOGIES, INC., THROUGH ITS WHOLLY OWNED SUBSIDIARY,
T-NETIX TELECOMMUNICATIONS SERVICES, INC.

This is an Amendment to the Contract between the Florida Department of Corrections ("Department") and T-Netix Telecommunications Services, Inc. ("Contractor") to provide Statewide inmate telephone services.

This Amendment:

- Revises Section III., A., Compensation fourth paragraph, COIN OPERATED TELEPHONES.

Original contract period:	September 25, 2007 through September 24, 2012
Amendment #1	July 29, 2009 through September 24, 2012

In accordance with Section V., Contract Modifications; the following changes are hereby made:

1. Section III., A., Compensation, fourth paragraph, COIN OPERATED TELEPHONES is hereby revised to read:

III. COMPENSATION

COIN OPERATED TELEPHONES:

The Contractor shall provide inmate telephone COIN OPERATED TELEPHONE service at the following surcharges and rates:

TYPE OF CALL	"TO CONNECT" SURCHARGE	RATE PER MINUTE
Local Coin	\$.50	\$0.00
Local Extended Area	\$.50	\$0.00
Inter-lata	\$1.20	\$0.04
Intra-lata	\$1.20	\$0.04
Interstate	\$1.20	\$0.04

TYPE OF CALL	"TO CONNECT" SURCHARGE	RATE PER FIVE MINUTE INCREMENT
1+ Inter-lata	\$1.20	\$0.20
1+ Intra-lata	\$1.20	\$0.20
1+ Interstate	\$1.20	\$0.20

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EXHIBIT D

**CONTRACT C2372
AMENDMENT #4**

Department's behalf. The Contractor shall provide the ITS within the parameters as defined in Section II., Scope of Service and as directed by the Department.

3. **Section II., Q., 2.,** Other Contract Requirements, paragraph 1, is hereby revised to read:

2. Other Contract Requirements

Monitoring for Other Contract Requirements, identified in Section II., P., 2., shall be conducted no less than twice a year. Such monitoring may include, but is not limited to, both announced and unannounced site visits.

4. **Section III., A.,** Payment and Invoices, paragraphs 2 through 5, is hereby revised to read:

The Department established a fixed "to connect" surcharge for service delivery of its ITS. The "to-connect" surcharge established by the Department shall be utilized by the Contractor for local, local extended area calls, and for all calls on the North American Dialing Plan, including interlata, intralata, and interstate calls. There shall be no additional rate per minute charges allowed for local coin and local extended area calls.

COLLECT CALL SURCHARGE (Land and Cellular Lines):

The Contractor shall provide inmate telephone COLLECT CALL service at the following surcharges and rates:

TYPE OF CALL	"TO CONNECT" SURCHARGE	RATE PER MINUTE
Local Extended Area	\$.50	\$0.00
Inter-lata	\$1.20	\$0.06
Intra-lata	\$1.20	\$0.06
Interstate	\$1.20	\$0.06

PREPAID CALL SURCHARGE (Land and Cellular Lines):

The Contractor shall provide inmate telephone PREPAID CALL SURCHARGE service at the following surcharges and rates:

TYPE OF CALL	"TO CONNECT" SURCHARGE	RATE PER FIVE MINUTE INCREMENT
Local Extended Area	\$.50	\$0.00
Inter-lata	\$1.02	\$0.30
Intra-lata	\$1.02	\$0.30
Interstate	\$1.02	\$0.30

COIN OPERATED TELEPHONES (Land and Cellular Lines):

The Contractor shall provide inmate telephone COIN OPERATED TELEPHONES service at the following surcharges and rates:

**CONTRACT C2372
AMENDMENT #4**

TYPE OF CALL	“TO CONNECT” SURCHARGE	RATE PER FIVE MINUTE INCREMENT
Local Coin	\$.50	\$0.00
Local Extended Area	\$.50	\$0.00
Inter-lata	\$1.20	\$0.30
Intra-lata	\$1.20	\$0.30
Interstate	\$1.20	\$0.30

TYPE OF CALL	“TO CONNECT” SURCHARGE	RATE PER FIVE MINUTE INCREMENT
1+Inter-lata	\$1.20	\$0.30
1+Intra-lata	\$1.20	\$0.30
1+Interstate	\$1.20	\$0.30

NOTE: Any fees, surcharges, or other types of costs associated with the Florida Relay Service are the responsibility of the family and friends accepting calls from inmates utilizing this service. The Contractor is only responsible for ensuring that inmates have the ability to connect to the Florida Relay Service, and is not responsible for ensuring the rates charged to the family and friends are the same as those rates provided in this section.

5. **Section IV., A., Department’s Contract Manager**, is hereby revised to read:

A. Department’s Contract Manager

The Contract Manager for this Contract will be:

Lynn Hart, Chief
Office of Contract Management and Monitoring
Department of Corrections
501 South Calhoun Street
Tallahassee, FL 32399-2500
Phone: (850) 717-3961
Fax: (850) 922-8897
Email: Hart.Lynn@mail.dc.state.fl.us

The Contract Manager will perform the following functions:

1. Maintain a contract management file;
2. Serve as the liaison between the Department and the Contractor;
3. Verify receipt of deliverables from the Contractor;
4. Monitor the Contractor’s progress;
5. Evaluate the Contractor's performance;
6. Direct the Contract Administrator to process all amendments, renewals and terminations of this Contract;
7. Evaluate Contractor performance upon completion of the overall Contract. This evaluation will be placed on file and will be considered if the Contract is subsequently used as a reference in future procurements.