

April 24, 2013

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

Re: **Notice of Ex Parte – WC Docket No. 13-79**
Securus Technologies, Inc.; T-NETIX, Inc.; T-NETIX Telecommunications
Services, Inc.; Connect Acquisition Corp.; Securus Investment Holdings, LLC

Dear Ms. Dortch:

Monica Desai of Patton Boggs LLP, on behalf of Securus Technologies, Inc. (“Securus”), T-NETIX, Inc., T-NETIX Telecommunications Services, Inc. (collectively, the “Securus Entities”), Connect Acquisition Corp. (“Connect”) and Securus Investment Holdings, LLC (“SIH”) (collectively, the “Applicants”), had discussions with several Federal Communications Commission (“FCC” or “Commission”) staff regarding the Applicants’ pending applications for approval of the indirect transfer of control of the Securus Entities’ domestic and international Section 214 authority (“Transaction”). The focus of the discussions was the Transaction.

More specifically, on April 22, 2013, Ms. Desai spoke by telephone with Valery Galasso, Confidential Assistant & Special Advisor to Commissioner Jessica Rosenworcel; Angela Kronenberg, Wireline Legal Advisor to Commissioner Mignon Clyburn; Jodie May Donovan, Assistant Division Chief, Competition Policy Division, Wireline Competition Bureau; and Michael Steffen, Legal Advisor to Chairman Julius Genachowski.

Then, on April 23, 2013, Ms. Desai, accompanied by Paul C. Besozzi of Patton Boggs, Dennis Reinhold (Vice President, General Counsel and Secretary of the Securus Entities, and Secretary of Connect), and Bennett Ross (Counsel to SIH and ABRY Partners (“ABRY”)), met with Ms. Kronenberg, and separately with Mr. Steffen. Mr. Richard A. Smith (Chief Executive Officer of the Securus Entities and Executive Vice President of Connect) participated by telephone in the discussion with Ms. Kronenberg.

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Ms. Desai emphasized that approval of the Applicants' routine transfer of control applications should not be delayed based on the Petition to Deny,¹ and the following topics were also discussed:²

The proposed Transaction will not have any impact on existing contracts with state and local correctional facilities: The Securus Entities provide inmate telephone services pursuant to contracts with either individual correctional facilities or the state or local government entity that has authority to enter into such agreements. Consummation of the Transaction will not modify or otherwise impact the rates, terms and conditions of those existing contracts, and the Securus Entities will continue to be bound by all of their terms, again without change.³

The proposed Transaction poses no potential for competitive harm: Consummation of the Transaction will not affect the structure of the inmate telephone services market. The Securus Entities will continue to compete with approximately 40 to 50 other companies for contracts to serve confinement facilities. The Transaction will not eliminate any competitor because no party is exiting the inmate telephone service market as a result of the Transaction, and neither ABRY nor any of its affiliates currently compete in that market. The Federal Trade Commission also granted early termination of the Hart-Scott-Rodino waiting period by letter dated March 27, 2013.⁴

The separate pending Petition for Declaratory Ruling filed by Securus should not be a basis for delaying approval of the Transaction: Securus filed the Petition for Declaratory Ruling to address an issue vital to prison security, public safety and consumer protection. Specifically, Securus seeks to confirm that it may block calls in the unique and special context of call diversion providers that re-route inmate initiated calls to unknown terminating telephone numbers,

¹ Public Knowledge, United Church of Christ, Office of Communication, Inc., Free Press, and Rainbow/PUSH Coalition Petition to Deny Applications, WC Dkt No. 13-79 (filed Apr. 11, 2013) ("Petition").

² Attached is a handout provided to staff during the meetings on April 23, summarizing the reasons that the FCC should expeditiously approve the transaction.

³ See Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Monica S. Desai, Patton Boggs LLP, WC Docket No. 13-79, Decl. of Dennis Reinhold, ¶ 6 (filed Apr. 17, 2013) ("Reinhold Declaration").

⁴ See Letter to Carla A. Hine, Esq., Transaction ID No. 20130695, from Theresa Kingsberry, Legal Assistant, Premerger Notification Office, Bureau of Competition, Federal Trade Commission, March 27, 2013; Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification, 78 Fed. Reg. 21604 (April 11, 2013).

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particularly where the contract with the correctional facility requires Securus to block these calls.⁵ Users of these diversion services are provided with telephone numbers that are local to the correctional facility, but the inmate could actually be calling anyone and anywhere. As a result, prison administrators are unable to identify and investigate the actual called party.

Securus explained that correctional facilities depend on, and contractually require Securus to provide, the ability to capture and record terminating telephone numbers of all inmate-initiated calls. For security reasons, administrators must know who the inmates are calling, and be able to prevent inmates from using the telephones to facilitate criminal activity. In fact, Securus has participated in hundreds of law enforcement proceedings and often provides live testimony to help convict people who have tried to make calls intended to harm judges, juries, victims, witnesses, and prosecutors. Securus has also helped stop crimes before they have happened, including jail break plans and hits on judges. Call diversion schemes interfere with and impede these public safety capabilities.

Further, of the entities which Securus has been able to identify, the call diversion operators do not obtain the requisite state certifications, and have no tariffs on file. These entities do not participate in the competitive bidding process for the contracts to serve the confinement facilities. Nor do the majority of these entities contribute to the federal Universal Service Fund.⁶ It thus appears that these call diversion providers have escaped regulatory scrutiny entirely, and do not comply with any of the statutory or regulatory safeguards necessary to ensure quality of service and fair treatment of consumers.⁷

Securus noted that its pending Petition for Declaratory Ruling was not raised by the Petitioners in this proceeding and that the call blocking issue, which was raised by Securus itself, is unrelated to the Transaction. The Petition for Declaratory Ruling is based on a 1991 FCC order exempting inmate-only telephone service from the requirements of the Operator Services Act and related Commission rules because “the provision of such phones to inmates presents an exceptional set of circumstances that warrants their exclusion from [dial-around] regulation.”⁸ Securus and ABRY both noted in the meetings that Securus’ Petition for Declaratory Ruling has been pending for more than three years, and both companies believe that the Securus Entities are operating

⁵ See Securus Technologies, Inc., Petition for Declaratory Ruling, CC Dkt. No. 90-313, CC Dkt. No. 94-158, WC Dkt. No. 09-144, at 1 (filed July 24, 2009) (“Petition for Declaratory Ruling”).

⁶ See 47 U.S.C. § 254(d); 47 C.F.R. §§ 54.706 - 54.711.

⁷ Appended to the Petition for Declaratory Ruling are eleven letters from local law enforcement and county government (spanning nine states) expressing their concerns over call diversion schemes. See Petition for Declaratory Ruling at Exhibits 18-28.

⁸ *Policies and Rules Concerning Operator Service Providers*, Report and Order, CC Dkt. No. 90-301, 6 FCC Rcd 2744, 2752 ¶ 15 (1991).

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lawfully. That conclusion is supported by the fact that the Commission has not taken any enforcement action in the intervening period.

There will be harm to Securus if the transaction is delayed: Securus and ABRY have expended significant time, energy, and expense to close the Transaction by the end of April, including organizing a syndicate of 84 banks and lining up \$640 million in debt, along with the equity stake that ABRY will provide. Delays will result in monetary costs, including a “ticking fee” averaging approximately \$25,000 per calendar day (\$750,000 per month) to hold financing rates and terms constant. In addition, if the current debt is not paid off on April 30, 2013, it will cost the Securus Entities an additional \$270,000 per month in interest vs. the interest rate on the new debt that will be in place following consummation of the Transaction. Lastly, delays may result in increased interest rates for the new debt (for example, if interest rates increased by 30 basis points (.3%) it would cost the Securus Entities an additional \$11 Million in interest over the term of the new debt. As discussed in the Declaration by Mr. Reinhold submitted on April 17, 2013, delay also has the potential to put the debt financing at risk, lead to the termination of the agreement, hold up a technology transaction, subject the Transaction to a market shutdown, and create an additional cost of existing debt.⁹ Delay will have real and concrete costs.

ABRY is interested in purchasing the Securus Entities because it considers these entities to be valuable technology companies with growth potential in a number of areas. ABRY’s investment strategy is to invest in companies in the communications sector and partner with management to grow their business. ABRY is fully aware of the pending regulatory policy issues that could impact the Securus Entities and is willing to take the business risk of investing in these companies. However, as Mr. Ross emphasized, communications services are capital intensive, and any delay by the FCC based on factors that do not relate to the proposed Transaction will have a chilling effect on future investment in the communications sector, to the detriment of the industry and consumers alike.

Securus looks forward to meeting with any public interest group to discuss the issues raised in the pending rulemaking proceeding: Ms. Desai emphasized that the Securus Entities and ABRY have no intention whatsoever of using the Transaction to delay the pending inmate telephone rate proceeding. The issues raised in the Petition are not transaction specific and must be addressed in the policy proceeding. The parties would be supportive of including a statement with approval of the Transaction that confirms that nothing in the Transaction approval would limit or bind the Commission with respect to issues to be decided in the ongoing ratemaking proceeding.

⁹ See Reinhold Declaration, ¶ 8.

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Respectfully submitted,



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Reasons the FCC Should Approve the Securus Transfers of Control

- **Simple Transaction** – Indirect transfer of control from one equity fund to another equity fund;
- **No Potential for Harm** – No market concentration, no monopoly, no rate increases or contract changes, transparent to customers;
- **In the Public Interest** – Securus will have access to additional funds, with investor that understands communications sector;
- **Petitioners Lack Standing** to oppose this transaction (no direct injury);
- **Delay Will Increase Securus' Costs/Risks**
 - Debt Financing Risk
 - Interest Rate Increase
 - ABRY Could Terminate Transaction
 - Debt Cost Increase
 - Bank Fee Increases
 - Technology Acquisition on Hold
 - Markets Could Shut Down
- **Petition to Deny is Misplaced and Without Merit** – Opposition to approval comes from entity that is concerned with existing rates, a different Docket covers those issues.

Securus respectfully requests that the FCC Wireline Bureau dismiss or deny Petitioners' Petition to Deny and grant Securus' transfer of control applications.



SECURUS
TECHNOLOGIES

CERTIFICATE OF SERVICE

I, Ryan King, certify on this 24th day of April, 2013, a copy of the foregoing Notice of Ex Parte has been served via First-Class U.S. Mail, Postage Pre-Paid, and via Electronic Mail to the following:

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