

May 31, 2013

Monica S. Desai
Direct Tel: 202-457-7535
Direct Fax: 202-457-6315
mdesai@pattonboggs.com

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

Re: **Notice of Ex Parte – WC Docket Nos. 12-375 and 09-144**
Securus Technologies, Inc.

Dear Ms. Dortch:

On May 29, 2013, Dennis Reinhold, Vice President, General Counsel and Secretary of Securus Technologies, Inc. (“Securus”), and Monica Desai of Patton Boggs LLP and Stephanie Joyce of Arent Fox LLP, both counsel for Securus, met with Deena Shetler, Associate Bureau Chief, Wireline Competition Bureau, and the following staff of the Wireline Competition Bureau, Pricing Policy Division: Kalpak Gude (Division Chief), Lynne Engledow, Pamela Arluk, Randy Clarke, Rhonda Lien, David Zesiger, and Anjali Vora. Melissa Kirkel from the Wireline Competition Bureau, Competition Policy Division, joined the meeting by phone. The meeting focused on the pending Notice of Proposed Rulemaking on interstate inmate calling service rates,¹ and on Securus’ pending Petition for Declaratory Ruling (“Petition”) regarding diversion of inmate-initiated calls.² In addition to the topics outlined below, Securus provided attendees with a color, enlarged copy of the attached one-page presentation.

Inmate Rate Proceeding

Securus explained that in the last ten years, the rates for inmate telephone service have decreased dramatically. Most correctional facilities limit inmate telephone calls to 15 minutes, and the average charge for such a call across all call types and all correctional facilities served by Securus is approximately \$3.20. In addition, the most that an inmate will pay for a 15-minute interstate telephone call at a Securus facility is approximately \$15.74. Securus is not aware of billing any 15-minute call rate that totals \$30 to \$50 dollars as some parties have alleged.

¹ *Rates for Interstate Inmate Calling Services*, Notice of Proposed Rulemaking, WC Dkt. No. 12-375, 27 FCC Rcd 16629 (2012).

² *See* Securus Technologies, Inc., Petition for Declaratory Ruling, CC Dkt. No. 90-313, CC Dkt. No. 94-158, WC Dkt. No. 09-144 (filed July 24, 2009).

Securus outlined the significant investments it makes before providing service to a new correctional facility and discussed the need for per-call charges. Securus explained that significant capital investment is made at a site in order to provide inmate telephone service before the service is even offered. Securus typically does not recover its initial investment until it has served a facility for 3.5 to 4 years. For example, Securus spent \$38 million related to its contract with correctional facilities in Texas before the first call was ever made. In addition, Securus incurs the bulk of its service costs prior to called party acceptance – which means prior to the commencement of billing for the call.

Securus explained that contracts with correctional facilities include a number of unique costs, because correctional facilities are particularly concerned that inmates not use the telephone system to facilitate crimes or threaten or intimidate individuals (e.g., judges, politicians, witnesses, and victims). Securus must route all telephone calls through a proprietary database to confirm that the inmate is permitted to call that particular telephone number, and also supplies the technology and resources to record, track and monitor each call, as required. Securus typically is required to store call information for the length of the contract plus five years. Securus actively assists in 300 to 400 law enforcement investigations per year. In addition, Securus gives away 1 million free calls per month, because under some contracts, an inmate's first telephone call, call to her lawyer, calls to other parties, or other categories of calls must be provided free of charge. The size of the correctional facility and volume of calls also impacts the ability of Securus to recover its costs.

Securus explained that site commissions are not “profit.” Site commissions are required by virtually all state and local governments; they are not optional payments made by the inmate telephone service providers. Those commissions range from anywhere from 20 to 88 percent of revenue. Among the facilities served by Securus, the Missouri Department of Corrections is an exception, having voluntarily eliminated site commissions; calling rates for inmate telephone services there are only 5 cents per minute (with a \$1.00 per call charge for traditional collect calls). Nationwide, site commissions raise \$600 million annually for states and localities to support correctional facilities and inmate services, and in some cases are applied to general budget shortfalls.

Securus urged the FCC staff not to allow any subsequent rate or rule change to alter existing contract obligations. As detailed in its Comments filed March 25, 2013, Securus opposes any retroactive application of an FCC-imposed rate reduction. Contracts are awarded under state and local procurement regulations, and last for a definite term of years. Rates are derived on a case-by-case basis according to existing law and the circumstances at the facility, and often are contained as contract terms. Most contracts do not contain change of law provisions. Securus could, however, support an approach where new rates apply on a going-forward basis to contracts that are bid, signed, or re-negotiated after the effective date of the new rates. The New Mexico Public Regulation Commission has consistently adopted this approach when reviewing rates for inmate services, including in its recent rulemaking.

Federal Communications Commission

May 31, 2013

Page 3

Securus also discussed the transition from collect calling to prepaid calling accounts. Today, approximately 80 percent of inmate telephone calls are made using prepaid accounts. Prepaid calling has lowered the incidence of bad debt and makes the inmate provider more competitive. Securus stated that establishing and replenishing a prepaid account by credit or debit card entails a convenience fee to help recover the cost of processing the card payment. Securus does not charge a fee to accounts that use standard payment methods, such as a check. Also, Securus does not charge a fee to establish an account. The company only charges a fee in connection with using a credit or debit card to fund an account.

Securus supported CenturyLink's proposal to create an FCC Advisory Committee or Working Group.³ As it stated in its Reply Comments, the company agrees that an FCC-led process would enable all stakeholders to effectively present their respective concerns and work together to develop a comprehensive and lasting solution. Securus is willing to engage in a sincere dialogue with public interest groups, but is only one of several companies in this industry. Other stakeholders, and particularly the correctional agencies and officials, should be part of any consensus-based process, as their views will be important in evaluating related issues including security concerns, and the administrative requirements of correctional facilities. Securus would welcome the opportunity to participate on an Advisory Committee, or even a more informal Working Group, aimed at getting a widespread consensus.

³ See WC Dkt. No. 12-375, Comments of CenturyLink at 2 (Mar. 25, 2013).

Federal Communications Commission

May 31, 2013

Page 4

Call Diversion Petition

Securus explained that its Petition was and is based on valid and serious security concerns.

Its contracts with correctional facilities require Securus to block attempts to forward or reroute inmate calls to a telephone number other than the dialed number. Security concerns are implicated when a correctional facility is unable to find a registrant for the terminating number of an inmate-initiated call. Because call diverters do not populate the Line Information Data Base (LIDB), the “local” numbers that the inmates dial are not registered to a person, entity, or address. Securus does not, however, block call attempts placed to the subscribers of Interconnected VoIP providers, as defined in 47 C.F.R. § 9.3 (such as Vonage). Interconnected VoIP providers act as a local exchange carrier, and they populate LIDB with registration information about the terminating telephone number.

Respectfully submitted,



Monica S. Desai
Patton Boggs, LLP
2550 M Street, NW
Washington, DC 20037
(202) 457-7535
Counsel for Securus Technologies, Inc.

cc: Rebekah Goodheart
Deena Shetler
Kalpak Gude
Lynne Engledow
Pamela Arluk
Randy Clarke
Rhonda Lien
David Zesiger
Anjali Vora

Inmate Communications and Security Business/Public Policy

Background

- 1) Securus' average rate per call in 2012 was \$3.20 including fees. On average, each inmate spends \$33.66 per month for calls;
- 2) Industry paid/funded \$600 million in 2012 for inmate/victim assistance funds and other necessary corrections/enforcement programs;
- 3) 49 of 50 States and 3108 of 3141 Counties allow commissions by State law;
- 4) Securus does not set inmate rates or commissions levels; jail and prison administration does after balancing needs of inmates, friends, family members, and those of public safety;
- 5) Securus' technology has prevented crimes, solved crimes, and saved thousands of lives;
- 6) Securus' profit percentage is less than AT&T, Verizon, CenturyLink/Qwest, Time Warner Telecom, and Time Warner – No abnormal level of profits;
- 7) Securus allows over 1,000,000 free calls per month to inmates and friends and family members.

Public Policy Questions

- 1) Who should pay for inmate calling and security for public when inmates make calls?
- 2) How to influence 17,654 prison/jail administrators with different views of inmate and societal balances?
- 3) Who replaces \$600 million of necessary inmate/other program funding if commissions are eliminated?
- 4) How to get 49 State and 3108 County laws revised to take interests of inmates, corrections, enforcement and society into consideration?

Dennis J. Reinhold
Vice President, General Counsel & Secretary

May 29, 2013