

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

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

**OPPOSITION TO
PETITION FOR LEAVE TO ADD FEE**

Martha Wright, Dorothy Wade, Annette Wade, Ethel Peoples, Mattie Lucas, Laurie Nelson, Winston Bliss, Sheila Taylor, Gaffney & Schember, M. Elizabeth Kent, Katharine Goray, Ulandis Forte, Charles Wade, Earl Peoples, Darrell Nelson, Melvin Taylor, Jackie Lucas, Peter Bliss, David Hernandez, Lisa Hernandez, Vendella F. Oura, along with The D.C. Prisoners’ Legal Services Project, Inc., Citizens United for Rehabilitation of Errants, the Prison Policy Initiative, and The Campaign for Prison Phone Justice (jointly, the “Petitioners”) hereby submit this Opposition to the Petition For Leave to Add Fee for Voice Biometrics Technology, filed by Securus Technologies, Inc., on February 19, 2014 (the “Petition”).

The Petition requests that the FCC permit Securus to “add a per-minute fee of \$0.02 to its interstate calls in order to cover the cost of providing voice biometric technology.”¹ Citing the recent grant of a Petition for Waiver filed by Pay Tel Communications², Securus argues that the rate caps imposed by the Commission³ are “demonstrably below its costs of services.”⁴

¹ *Petition*, pg. 1.

² *Wavier Order*, DA 14-187 (rel. Feb. 11 2014).

³ *Rates for Interstate Inmate Calling Services*, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-113, rel. Sept. 26, 2013 (2013).

⁴ *Petition* pg. 4.

However, Securus utterly failed to demonstrate that the rate caps imposed in the Inmate Calling Services Report and Order are below its cost of providing service, even if the Voice Biometrics fee is included. While Paytel was required to submit audited financial statements and detailed cost studies in connection with its request for waiver, Securus merely states – “Me too.” Thus, the FCC must deny Securus’ request for its failure to provide any meaningful evidence that the voice biometric fee results in Securus being incapable of remaining in business but for the grant of relief.

Further undermining the Petition are the statements made by Securus that directly undermine the Petition. Specifically, in response to DC Circuit’s partial stay of the Report and Order, the Chief Executive Officer and President of Securus stated:

We knew that the price cap rates were probably not going to be stayed,” said Richard Smith, chief executive officer and president of Securus Technologies. “We are going to implement those on Feb. 11,” he told Bloomberg BNA in a Jan. 13 interview. “The things we did like about the stay are that the annual reporting and certification requirements were stayed,” Smith said. “There was a tremendous amount of reporting the FCC was requiring and that will be on hold,” he said.

Securus argued that the new rate caps, which Smith estimated would cost the company \$10 million to \$15 million in annual revenues, would reduce the security features that the company offers. Smith said Securus has invested heavily in voice biometrics, call recording, data storage and searchable word identification technologies that help prison and law enforcement officers monitor inmates who seek to facilitate crimes outside of prison. Such investments are now imperiled by the FCC’s order but “we can live with that,” Smith told Bloomberg BNA.⁵

Based on Securus’ own statement, therefore, the imposition of the price caps will not have the same severe financial impact referenced in Pay Tel’s waiver request, and Securus “can live with” the reduction in revenue.

⁵ *Court Partially Denies Appeal to Block FCC Prison Call Rate Caps*, Wednesday, January 15, 2014. *See Exhibit A.*

Finally, the Petitioners have previously provided evidence that the voice biometric technology is something that Securus is willing to provide at a very low per-minute rate. For example, as shown in the Petitioners' July 18, 2013 *Ex Parte* Submission, Securus was willing to include the Voice Biometrics service for no-charge to the customer in its proposal to the Florida Department of Corrections, while still proposing only a \$0.095/minute rate for all calls.

Thus, in the absence of any concrete evidence to the contrary, Securus has failed to show any reasonable basis to increase its per-minute rates to \$0.23 per minute for debit and prepaid interstate calls, and \$0.27 per minute for collect interstate calls. Unless Securus is willing to submit the same financial information as provided by Pay Tel Communications in connection with its Petition for Waiver, i.e., audited Financial Statements, verified cost studies, the FCC must deny the Petition for Leave.

Respectfully submitted,

By: /s/ Deborah M. Golden, Esquire

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February 28, 2014

EXHIBIT A



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Court Partially Denies Appeal to Block FCC Prison Call Rate Caps

Wednesday, January 15, 2014

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By *Bryce Baschuk*

Jan. 13 --The U.S. Court of Appeals for the District of Columbia Circuit denied, in part, a bid to stay the Federal Communications Commission's new rate caps for companies that provide interstate phone services to prison inmates, in a [decision](#) (*Securus Technologies, Inc. v. FCC, et al*, D.C. Cir., No. 13-1280, *per curiam order filed 1/13/14*).

Pending further court action, the FCC's new caps setting inmate calling rates at \$0.21 per minute for debit calls and \$0.25 per minute for collect calls will go into effect on Feb. 11. The outcome was anticipated by Securus Technologies Inc., the company that challenged the FCC's 2013 inmate calling order. Securus and Global Tel-Link Corp. dominate the \$1.2 billion U.S. correctional phone services market.

The FCC [found](#) that prior to the order inmate phone call rates were as high as \$17 for a 15-minute call and that inmates were charged as much as a \$4 connection charge each time. The commission said such charges discouraged inmates from calling their families, friends and attorneys or vice versa, because they often can't afford the charges.

Securus challenged the FCC's ability to set rate caps, safe harbors and an ongoing obligation for prison phone providers to prove that their rates are cost-based. The company also argued the FCC lacks jurisdiction and authority over all intrastate calling services, including inmate services and the ruling would intrude directly into correctional operations and penological policy.

Challenge Partially Stayed

The court Jan. 13 stayed the commissions' safe harbor rates of \$0.12 per minute debit calls and \$0.14 per minute collect calls. The court also stayed, as requested by Securus, the FCC's cost basis requirements and reporting requirements which include transaction fees.

"It's not often the D.C. Circuit grants a stay at all," said Securus' attorney Stephanie Joyce, a partner at Arent Fox LLP. Joyce told Bloomberg BNA that Securus will continue to appeal the final order. The court will now hear oral argument from both parties and make a final decision on whether the remaining elements of the order will stand or should be reversed.

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Democratic Commissioners Pleased

"The items that were stayed were on the right side of history and we will have to see how all that shakes out in the next year," Smith said. "Securus is committed to providing high end security features that one third of all the prisons in the U.S. require and we will continue to fight for prisons and jails to fight for the prices that they deem are necessary to support their own prisons and jails," he said.

The FCC's three Democrats said they were pleased that "millions of families will finally see relief from outrageous rates for inmate calling services" when the interim rate caps go into effect, according to a news release attributed to FCC Chairman Tom Wheeler and Commissioners Jessica Rosenworcel and Mignon Clyburn. "These families have been forced to pay exorbitant rates for far too long," they said. "Although we are disappointed that the court granted a partial stay on other aspects of the inmate calling services order, we look forward to a hearing on the merits soon and to adopting further reforms quickly."

The FCC's [inmate calling services order](#) was the capstone of Clyburn's interim term as FCC Chairwoman. Clyburn previously told Bloomberg BNA that the order "fulfilled our obligation to ensure just, reasonable and fair phone rates for all Americans, including the millions with loved ones in prison. For too long, family and friends of inmates had been urging the courts and waiting for the FCC to ease the burden of exorbitant prison phone calling rates," she said.

Wheeler recently [said](#) the FCC will "stand firm" on its decision to cap prison calling rates, during a Jan. 9 town hall meeting in Oakland, Calif. "We're going to fight them in court because it is the right thing to do," he said.

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