

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
 )  
Rates for Interstate Inmate Calling Services ) WC Docket No. 12-375  
 )  
Pay Tel Communications, Inc.’s Petition )  
For Waiver of Interim Interstate ICS Rates )

**COMMENTS OF CENTURYLINK REGARDING SECURUS  
TECHNOLOGIES, INC.’S INMATE CALLING SERVICE PETITIONS**

CenturyLink, Inc. on behalf of itself and its subsidiaries submits these comments in support of the Petition to Expand Pay Tel Waiver and the Petition for Leave to Add Fee for Voice Biometrics Technology filed by Securus Technologies, Inc. (“Securus”). For the reasons that follow, the Commission should grant both petitions.

**I. THE PETITION TO EXPAND PAY TEL WAIVER TO ALL ICS PROVIDERS SHOULD BE GRANTED**

On February 11, 2014, the Commission’s Wireline Competition Bureau granted Pay Tel Communications, Inc. (“Pay Tel”) a limited waiver<sup>1</sup> of the interstate rate caps imposed by the Commission in its September 26, 2013 Report and Order in this proceeding.<sup>2</sup> The *Waiver Order* permits Pay Tel to charge up to \$0.46 per minute for existing *and new clients* for a period of nine months unless the Commission decides to take action on intrastate rates sooner.<sup>3</sup> Pay Tel may

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<sup>1</sup> *Rates for Interstate Inmate Calling Services; Pay Tel Communications, Inc.’s Petition for Waiver of Interim Interstate ICS Rates*, Order, DA 14-187, WC Docket No. 12-375 (rel. Feb. 11, 2014) (the “*Waiver Order*”).

<sup>2</sup> *Rates for Interstate Inmate Calling Services*, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-113, WC Docket No. 12-375, 28 FCC Rcd 14107 (2013) (the “*ICS Order*”), *cons. appeals pending sub nom., Securus v. FCC*, Case No. 13-1280 (D.C. Cir 2013).

<sup>3</sup> *Waiver Order* ¶¶ 20-21.

not charge interstate rates any greater than its rates at particular correctional facilities as of February 10, 2014 if those rates were under \$0.46 per minute.

Pay Tel requested its waiver based on a claim that it used above-cost interstate rates to subsidize below cost intrastate rates imposed on it by state regulatory commissions and correctional facilities. According to Pay Tel, without a waiver of the interstate rate caps it would be placed in an economically unsustainable situation and would have to substantially curtail its operations, most likely terminating service in its smallest high-cost facilities.<sup>4</sup>

In its Petition to Expand Pay Tel Waiver, Securus seeks to level the playing field for all ICS providers. Securus notes that for any given facility, all ICS providers are subject to the same rules imposed by state regulatory commissions, the same constraints imposed by correctional facilities and the same challenges in serving city and county jails.<sup>5</sup> Moreover, as a result of the Pay Tel Waiver, all ICS carriers that compete with Pay Tel now have been significantly injured in their ability to compete for contracts and to serve existing sites.<sup>6</sup>

As the Commission notes in the *Waiver Order*, the interim interstate rate caps that it set were based in part on the cost study submitted by Pay Tel.<sup>7</sup> Pay Tel's cost study provided its calculation of the average costs it incurs in providing service to the city and county jails that it serves. It bears emphasizing that the costs Pay Tel presented in this docket and that the Commission used in setting the interim interstate rate caps are average costs. For some facilities, the cost of service is greater than the average and for some facilities the cost is below the

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<sup>4</sup> Pay Tel Communications, Inc.'s Petition for Waiver of Interim Interstate ICS Rates, filed Jan. 8, 2014, WC Docket No. 12-375 at 2.

<sup>5</sup> Securus Petition to Expand Pay Tel Waiver, filed Feb. 19, 2014, WC Docket No. 12-375 at 2-3.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Waiver Order* ¶ 4.

average. Nonetheless, the Commission used these average costs to set rate caps applicable to all jails and correctional facilities regardless of the cost of service at those facilities.

By granting Pay Tel a waiver of the interim interstate rate caps not just for existing customers but also for new customers, the Commission has created an uneven playing field. Only Pay Tel will be able to economically serve facilities that cost more than the Commission's interstate rate caps to serve. This disadvantages all of Pay Tel's competitors and will leave many facilities with only Pay Tel as an alternative for ICS. Ultimately, this will lead to higher interstate rates than would otherwise be the case at high cost facilities, to the detriment of inmates and their families.

To level the playing field for all ICS providers, the Commission should expand the Pay Tel Waiver to permit all ICS providers to charge interstate rates up to \$0.46 per minute for existing and new clients. This will not lead to increases in rates at existing facilities where the interstate rates were already below the \$0.46 per minute cap set for Pay Tel because all providers will be subject to the same limitation imposed on Pay Tel that prevents it from increasing existing rates if they were below \$0.46 on February 10, 2014. However, expanding the Pay Tel waiver will ensure that there is competition to serve jails and correctional facilities where the cost of service is above the Commission's interim interstate rate caps.

**II. THE COMMISSION SHOULD GRANT THE SECURUS PETITION FOR LEAVE TO ADD FEE FOR VOICE BIOMETRICS TECHNOLOGY AND EXPAND IT TO COVER ALL ICS PROVIDERS**

Securus seeks leave to add a per-minute fee of \$0.02 to its interstate calls in order to cover the cost of providing voice biometric technology required for secure inmate calling. Securus notes that the Commission reviewed the cost of voice biometric technology in its consideration of the petition for waiver filed by Pay Tel in this docket. Securus uses a product

that is identical to Pay Tel’s biometric product and uses the trade name “Continuous Voice Verification”, or “CVV”, for this product.<sup>8</sup> Securus obtains the biometrics technology from a third-party vendor called JLG Technologies. Pay Tel uses the same technology from JLG for its own biometrics product and pays the same fee.<sup>9</sup>

CenturyLink also uses the technology that Pay Tel and Securus use, and it agrees with Securus’s basic point that the relief that Securus seeks is fair, warranted, and a competitive necessity. In order to create a level playing field in the ICS market, the Commission should grant similar relief to similarly situated carriers. It should permit Securus and all other providers that use voice biometric technology to add the same \$0.02 per minute to their interstate rates in order to cover the cost of CVV service or its equivalent. Thus, the Commission should grant Securus’s petition for leave to add a fee for voice biometric technology and extend it to all other providers that use the same voice biometric technology.

### **III. CONCLUSION**

To ensure that all ICS providers compete on a level playing field and to ensure that high cost city and county jails are served, the Commission should grant the Securus Petition to Expand Pay Tel Waiver to All ICS Providers. The Commission should also grant the Securus

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<sup>8</sup> Securus Petition for Leave to Add Fee for Voice Biometrics Technology, filed Feb. 19, 2014, WC Docket No. 12-375 at 2

<sup>9</sup> *Id.*

Petition for Leave to Add Fee for Voice Biometrics Technology and expand it to cover all ICS providers.

Respectfully submitted,

**CENTURYLINK**

John E. Benedict  
Suite 250  
1099 New York Avenue, N.W.  
Washington, DC 20001  
202-429-3114  
[John.E.Benedict@CenturyLink.com](mailto:John.E.Benedict@CenturyLink.com)

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By: /s/ Thomas Dethlefs  
Thomas Dethlefs  
Suite 250  
1099 New York Avenue, N.W.  
Washington, DC 20001  
303-992-5791  
[Thomas.Dethlefs@CenturyLink.com](mailto:Thomas.Dethlefs@CenturyLink.com)

Its Attorneys