

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

In the Matter of)	
)	
Rates for Interstate Inmate Calling Services)	WC Docket No. 12-375
)	
Comment Sought on Securus Technologies, Inc.)	DA 14-296
Inmate Calling Services Petitions)	
_____)	

**REPLY COMMENTS OF GLOBAL TEL*LINK CORPORATION ON
SECURUS TECHNOLOGIES, INC.’S INMATE CALLING SERVICES PETITIONS**

Global Tel*Link Corporation (“GTL”),¹ hereby submits these Reply Comments on 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”)² in the above-referenced docket.³ The Commission’s grant of a waiver to Pay Tel Communications, Inc. (“Pay Tel”) undermines the competitive bidding process for inmate calling services (“ICS”) in all Pay Tel service markets.⁴ GTL does not support extending the waiver to all ICS providers because it will

¹ These comments are filed by GTL on behalf of itself and its wholly owned subsidiaries that also provide interstate inmate calling services: DSI-ITI, LLC, Public Communications Services, Inc., and Value-Added Communications, Inc.

² WC Docket No. 12-375, *Rates for Interstate Inmate Calling Services*, Securus Technologies, Inc. Petition to Expand Pay Tel Waiver (filed Feb. 19, 2014) (“Waiver Expansion Petition”); Securus Technologies, Inc. Petition for Leave to Add Fee for Voice Biometrics Technology (filed Feb. 19, 2014) (“Voice Biometrics Petition”) (collectively, the “Petitions”).

³ WC Docket No. 12-375, *Comment Sought on Securus Technologies, Inc. Inmate Calling Services Petitions*, DA 14-296, Public Notice (rel. Mar. 4, 2014) (“Public Notice”).

⁴ For example, there are at least three requests for proposals (“RFPs”) currently open in Pay Tel’s 13-state operating territory: Charleston, South Carolina; Clayton County, Georgia, and Seminole County, Florida. *See, e.g.*, http://www.charlestoncounty.org/departments/Procurement/cur-bids_pdfs/current_bids.htm (listing “Inmate Telephone Services” as a current bid opportunity); <http://www.claytoncountyga.gov/departments/central-services/view-bids-and-proposals.aspx> (asking for bids on Inmate Pay Phone Systems for Clayton County Sheriff’s and Clayton County Prison - Annual Contract); <http://classifieds.orlandosentinel.com/classifieds/legal-notice-announcement-237> (providing legal notice of RFP to provide an inmate telephone system and service at the John E. Polk Correctional Facility for the Seminole County Sheriff’s Office).

exacerbate the negative effect of the waiver by permitting immediate increases in interstate ICS rates to the detriment of consumers.

On February 11, 2014, the Commission granted Pay Tel a waiver of the interim interstate ICS rate caps established in its *Order and FNPRM*.⁵ The *Pay Tel Waiver Order* permits Pay Tel to charge up to \$0.46 per minute for interstate ICS calls for a period of nine months unless the Commission decides to take action on intrastate ICS rates sooner.⁶ In the Waiver Expansion Petition, Securus asks the Commission to extend the waiver granted to Pay Tel to all ICS providers serving jails in Pay Tel's 13-state service territory.⁷

In the separate Voice Biometrics Petition, Securus requests that the Commission permit ICS providers to add a per-minute fee of \$0.02 to their interstate ICS rates in order to cover the cost of providing voice biometric technology.⁸ As the Commission has recognized, ICS providers are making capital investments in "more sophisticated security features" such as voice biometrics.⁹ The interim rate caps adopted in the *Order and FNPRM* were "based on cost studies that include the cost of advanced security features such as continuous biometric identification."¹⁰ As part of its waiver request, Pay Tel provided evidence of the costs associated with voice biometrics, a service Pay Tel provides when requested by a correctional facility.¹¹

⁵ *Rates for Interstate Inmate Calling Services*, 28 FCC Rcd 14107 (2013) ("*Order and FNPRM*").

⁶ WC Docket No. 12-375, *Rates for Interstate Inmate Calling Services*, DA 14-187 (rel. Feb. 11, 2014) ("*Pay Tel Waiver Order*").

⁷ Waiver Expansion Petition at 7.

⁸ Voice Biometrics Petition at 4.

⁹ *Order and FNPRM* at n.196.

¹⁰ *Order and FNPRM* ¶ 58. The Commission also separately noted the cost of voice biometrics when discussing the financial and operational data submitted by Pay Tel in connection with the Commission's review of interstate ICS rates. See *Order and FNPRM* ¶ 27.

¹¹ Pay Tel Waiver Petition at 7, n.25.

Securus notes that the cost of biometrics is among the grounds on which the Commission granted Pay Tel's waiver request.¹²

The Securus Petitions, and CenturyLink's follow-on request,¹³ are evidence that Pay Tel should not have been granted a waiver. A closer review of whether Pay Tel is operating in an efficient manner may have been in order if, as Pay Tel claims, it would have been placed in an economically unsustainable situation without a waiver of the interim interstate rate caps.¹⁴ The interim interstate rate caps were based in part on a cost study submitted by Pay Tel.¹⁵ Pay Tel should have been required to live with the rates derived from its own cost study.

The Commission should not be in the business of subsidizing one company's business plan to the detriment of its competitors.¹⁶ As the Commission has recognized:

It would not be appropriate policy making . . . for us to slant our rules to favor firms that we forecast will be "winners" in the competitive battle and, in effect, write-off other competitors that we forecast will be "losers." It is for the marketplace, not this Commission, to determine which competitors will be "winners" and "losers." It is the responsibility of this Commission to ensure that all carriers receive an equal opportunity to compete in that marketplace.¹⁷

By granting Pay Tel a waiver of the interim interstate rate caps for both existing and new customers, the Commission has put all other ICS providers attempting to compete with Pay Tel

¹² Voice Biometrics Petition at 3.

¹³ CenturyLink Comments at 3, 4. CenturyLink similarly has requested that the Commission expand the *Pay Tel Waiver Order* to all ICS providers, and allow all ICS providers to add a per-minute fee of \$0.02 to their interstate ICS rates to recover the cost of voice biometrics.

¹⁴ Pay Tel Waiver Petition at 2.

¹⁵ *Pay Tel Waiver Order* ¶ 4.

¹⁶ Prepared Remarks of Jon Sallet Acting General Counsel, FCC, Conference on Competition & IP Policy in High-Technology Industries, Stanford, California (Jan. 22, 2014) ("in a competitive marketplace, we must understand that there will be winners and losers. It is not the government's job to tilt the playing field by punishing the winners or helping the losers"), *available at* <http://www.fcc.gov/document/remarks-jon-sallet-fcc-acting-general-counsel-stanford-ca?contrast=highContrast> (quoting Remarks of FCC Commissioner Pai at TechFreedom's Forum on the 100th Anniversary of the Kingsbury Commitment (Dec. 19, 2013), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db1219/DOC-324810A1.pdf).

¹⁷ *MTS and WATS Market Structure*, 102 FCC2d 849, ¶ 22 (1985).

at a competitive disadvantage. The Commission has long recognized that its policies should not “unfairly advantage or disadvantage one provider over another.”¹⁸ All ICS providers face the same rules imposed by state regulatory commissions, the same constraints imposed by correctional facilities, and the same challenges presented by serving smaller city and county jail facilities.¹⁹ Permitting one ICS provider to charge higher rates under the same conditions creates a distortion in the competitive ICS marketplace and “could be interpreted as the Commission picking winners and losers on an unsupportable basis, instead of the marketplace determining winners.”²⁰

While the distortion in the market creates a serious anti-competitive issue, extending the waiver to all ICS providers is not in the public interest. On February 11, 2014, the Commission’s interim interstate rate caps went into effect, and were implemented by all ICS providers other than Pay Tel. Consumers have had the benefit of those rate decreases for more than a month. If the Commission were to extend the Pay Tel waiver to all ICS providers, many inmates and their families would be subject to immediate rate increases. Public interest considerations dictate that the better course of action is to limit this “experiment” to Pay Tel and

¹⁸ *Connect America Fund, et al.*, 26 FCC Rcd 17663, ¶ 176 (2011).

¹⁹ Waiver Expansion Petition at 2-3.

²⁰ *Amendment of the Commission’s Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees*, 12 FCC Rcd 16436, ¶ 19 (1997).

let the waiver end as dictated by the *Pay Tel Waiver Order*. Accordingly, the Securus Petitions should be denied.

Respectfully submitted,

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²¹ Pursuant to the Public Notice, reply comments were to be submitted on or before March 17, 2014. The federal government was closed on March 17, 2014 due to adverse weather conditions, which moves the comment deadline to March 18, 2014. See 47 C.F.R. § 1.4(e)(1) (stating that “a regularly scheduled Commission business day may become a *holiday* if its offices are closed prior to 5:30 p.m. due to adverse weather, emergency or other closing”), (j) (stating that, if the filing date falls on a holiday, the document shall be filed on the next business day).