Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

July 23, 2014

ONLINE ONLY

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

Re: Opposition to Confidential Treatment of Cost Data Study of Securus Technologies, Inc. in filing for WC Docket No. 12-375, Response to Mandatory Data Collection

Dear Ms. Dortch:

The Human Rights Defense Center ("HRDC") objects to the confidential treatment by Securus Technologies, Inc. ("Securus") of public information from its cost data study filed on July 17, 2014, per the *Instructions for Inmate Calling Services Mandatory Data Collection*, OMB Approval 3060-1196 (rel. June 16, 2014); *see also* WC Docket No. 12-375, *Commission Announces Inmate Calling Services Data Due Date*, DA 14-429 (rel. June 17, 2014). The Commission's general instructions in the matter provide:

> "…If the filing contains confidential information a redacted spreadsheet may be filed via ECFS with non-redacted versions filed, as instructed in the *Protective Order* in this proceeding, via CD or other means..." (*Instructions* at Page 2).

The Commission's *Protective Order* defines "confidential information" as:

> "…information that is not otherwise available from publicly available sources and that is subject to protection under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the Commission's implementing rules." (*Protective Order* at Page 1).

HRDC objects to Securus' redaction of several types of information that are available publicly and not subject to any exemption under FOIA or the Commission's implementing rules: the number of facilities, the commissions paid, the number of revenue producing and non-revenue producing calls, ancillary fees, the cost of telephone systems and equipment, and the buyer in the 2013 sale of Securus to a private investment firm. Each subject is addressed individually below:

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1. The Number of Facilities

HRDC objects to the redactions related to the number of facilities that Securus contracts with in the U.S. The incarceration of inmates is an exclusive state function and therefore all contracts involving inmate calling services are done with public entities. Each of public entities contracting with Securus is subject to the FOIA or its equivalent state public records law. In addition, Securus previously provided the number of facilities in its own handout to the July 9, 2014 FCC Presentation, showing a total number of 1,231 Securus facilities. Therefore, the total number of facilities contracted with should be part of the public record in this proceeding.

2. The Commissions Paid

HRDC objects to the redactions related to commissions paid to local, state and federal agencies. The terms of Securus contracts relating to commission payments similarly are public information. The document filed with the FCC is merely an aggregation of publicly available data yet it is highly redacted. To illustrate this subject, HRDC's Prison Phone Justice Campaign has a collection of numerous publicly-available Securus telephone contracts on its website: https://www.prisonphonejustice.org/provider/securus/ The number of contracts held by Securus is public information, as is the amount of the commissions Securus pays to government officials under these contracts.

3. The Number of Revenue Producing and Non-Revenue Producing Calls

Similarly, the total number and type of telephone calls made from a government detention center is not confidential information and would be publicly available if requested under the FOIA or its equivalent state public records law. Withholding this information from the public filing is contrary to the Commision's definition of confidential information above.

4. Ancillary Fees

HRDC objects to the redaction of the ancillary fees charged by Securus to prisoners and their families. The fees charged to consumers are certainly known by Securus' customers once they have incurred those fees and charges. Therefore, they cannot be said to be confidential.

5. The Cost of Telephone Systems and Equipment

Similarly, the cost of telephone systems and equipment, whether provided directly or indirectly through a Securus call center are part of contracts with public entities and therefore not confidential. The filer, Securus, has failed to identify a specific FOIA exemption that applies to the information and therefore it should be disclosed.

6. Details of the 2013 Sale of Securus to ABRY Partners

It is publicly known that in 2013 Securus was sold by its then current owner, Castle Harlan Inc. *See* "American Securities Puts Prison-Phone Operator GTL on Block," Wall Street Journal, 4/17/14. Securus filed public documents detailing the terms of its sale to ABRY Partners in WC Docket 13-79, *In the Matter of Connect Acqusition Corp., T-Netix, Inc. and Securus Investment Holdings, LLC* (rel. March 20, 2013). The redaction of the terms of the sale is not confidential information and should not be treated as such. *See* FTI Consulting, Inc. Report at Page 8.

The Commission should order Securus to re-file its cost study without redaction of the aforementioned information.

Sincerely,

HUMAN RIGHTS DEFENSE CENTER

by: Paul Wright, Executive Director