

October 2, 2017

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**By ECFS**

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

RE: Ex Parte Submission  
WC Docket No. 17-126  
ITC-T/C-20170511-00094, ITC-T/C-20170511-00095

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Dear Ms. Dortch:

The Wright Petitioners, by and through their counsel, and pursuant to Section 1.1206(b) of the Federal Communications Commission's ("Commission") rules, hereby submit this *ex parte* presentation regarding the above-referenced transfer of control applications (the "Transaction").

As the Wright Petitioners have demonstrated in previous filings, the proposed Transaction raises serious concerns about whether Securus Technologies, Inc. ("Securus") has the requisite qualifications to hold Commission authorizations, given its long history of abusing Commission rules, policies, and procedures.<sup>1</sup> The Wright Petitioners maintain that the Commission should deny the Transaction entirely. If the Commission approves the Transaction, however, it should adopt targeted conditions on SCRS Acquisition Corporation (the "Resulting Entity") to address the serious public interest harms.

Applicants for transfer of a license have an affirmative obligation to demonstrate that grant of the application is in the public interest.<sup>2</sup> The applicants have not done so, and absent conditions, the Commission cannot find that grant of the applications would be in the public interest. To remedy such concerns, the Commission should use its authority to impose conditions designed to address specific harms that would result from a transaction.<sup>3</sup>

<sup>1</sup> See, e.g., *Petition to Deny of the Wright Petitioners et al.*, WC Docket No. 17-126, at 2 (filed June 16, 2017) (Petition to Deny); *Letter from Lee G. Petro*, Counsel for the Wright Petitioners, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-126 (filed Aug. 23, 2017).

<sup>2</sup> 47 U.S.C. § 310(d).

<sup>3</sup> 47 U.S.C. § 310(d).

Specifically, Section 214(c) of the Communications Act authorizes the Commission to attach to any Section 214 authorization “such terms and conditions in its judgment the public convenience and necessity may require.”<sup>4</sup> Similarly, Section 303(r) of the Act authorizes the Commission to “prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of [the Act].”<sup>5</sup>

The Wright Petitioners encourage the Commission to impose conditions related to Securus’ provision of inmate calling services (“ICS”) to reduce the potential harms caused by the Transaction. First, Securus has a history of charging excessive rates for interstate and intrastate ICS calls.<sup>6</sup> To mitigate the harms caused by this practice, the Commission could require Securus to comply with the Commission’s interim interstate rate caps set forth in the Commission’s rules for both interstate and intrastate calls: \$0.21 per minute for debit and prepaid for all ICS calls and \$0.25 per minute for collect ICS calls.<sup>7</sup> Alternatively, the Commission could require Securus to freeze its interstate and intrastate rates and ancillary fees at their current levels. Such caps would prohibit Securus from returning to charging excessive rates while the Commission considers how to address these issues in the *2015 ICS Order* on remand.<sup>8</sup>

Second, Securus charges its customers a “first-minute” rate that is almost identical to the per-call “connection fees” and “flat-rate charges” that the

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<sup>4</sup> 47 U.S.C. §214(c).

<sup>5</sup> 47 U.S.C. § 303(r).

<sup>6</sup> See *Petition to Deny* at 7 (“prior to the adoption of the cap on Interstate ICS rates, Securus charged inmates and their families ICS rates up to \$17.30 for a fifteen minute Interstate call.”); *Id.* at 8 (“Securus routinely charged a per-call connection or flat-rate fee regardless of the length of the call, with most such charges between \$1.00 and \$4.25. The result was that a local Securus call cost an average of \$3.71 for fifteen minutes, and that an average of \$2.71 was charged to inmates and their families regardless of the length of the call.”).

<sup>7</sup> See 47 CFR § 64.6030 (stating that “[n]o Provider shall charge a rate for Collect Calling in excess of \$0.25 per minute, or a rate for Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of \$0.21 per minute.”).

<sup>8</sup> See *Global Tel\*Link v. FCC*, 859 F.3d 39 (D.C. Cir. 2017) (remanding certain provisions in *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Second Report and Order and Third Further Notice of Proposed Rulemaking, 30 FCC Rcd. 12763 (2015) (*2015 ICS Order*)).

Commission's rules prohibit.<sup>9</sup> To the extent that Commission does not require the application of the interim intrastate rates to all Securus calls, and in order to prevent Securus from using this end-run around the Commission's rules to effectively charge banned per-call fees that result in higher rates for inmates and their families, the Commission should condition the transaction on requiring Securus to charge the lesser of the current rates for the first and second minute of an intrastate call.

Third, Securus currently provides just two forms of telecommunications relay service (TRS) to inmates with communication disabilities.<sup>10</sup> While the Commission authorizes compensation from the Interstate TRS Fund for video relay service (VRS), it does not mandate that ICS providers make this service available to inmates.<sup>11</sup> Access to more advanced forms of TRS, including VRS, would greatly benefit inmates with communications disabilities and enable them to communicate with their families via Securus' video visitation systems. To facilitate this, in facilities where Securus provides video visitation, the Commission should require Securus to provide VRS in each facility that it serves. Such a condition would offset potential public interest harms caused by the Transaction.

For these reasons and the reasons discussed in the Wright Petitioners' previous filings in this docket, the Transaction raises significant public interest concerns and should be rejected. But, at a minimum, Commission must adopt conditions to address the public interest harms posed by the Transaction.

Should there be any questions regarding this submission, please contact undersigned counsel.

Respectfully submitted,



Lee G. Petro

*Counsel for the Wright Petitioners*

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<sup>9</sup> See *Petition to Deny* at 8 (“[m]oreover, once Section 64.6080 and Section 64.6090 went into effect in 2016, it is clear that Securus simply renamed its “connection fee” or “flat-rate charge” as a “first-minute” charge”) (*citing* 47 CFR § 64.6080 and 47 CFR § 64.6090).

<sup>10</sup> See *2015 ICS Order* at 12876 ¶ 229.

<sup>11</sup> *Id.*

cc (by/email):

Chairman Ajit Pai

Commissioner Mignon Clyburn

Commissioner Michael O'Rielly

Commissioner Jessica Rosenworcel

Commissioner Brendan Carr

Nicholas Degani, Acting General Counsel

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Tom Sullivan, Chief, International Bureau

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