

Law Offices

July 24, 2017

1500 K Street N. W.
Suite 1100
Washington, D.C.
20005-1209

(202) 842-8800
(202) 842-8465 fax
www.drinkerbiddle.com

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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

Dear Ms. Dortch:

The Wright Petitioners, by and through their counsel, and pursuant to Section 1.1206(b) of the Commission's rules, hereby submit this Ex Parte Response to the (i) July 20, 2017 Ex Parte Submission ("July 20 Ex Parte Notice"), and (ii) July 21, 2017 Ex Parte Submission ("July 21 Ex Parte Notice"), both of which were filed by counsel for Securus Investment Holdings, LLC, Securus Technologies, Inc., T-NETIX, Inc., and T-NETIX Telecommunications Services, Inc. (collectively, "Securus") and SCRS Acquisition Corporation ("Platinum Equity").

The July 20th Notice responded to two points raised by the Wright Petitioners in their July 14, 2017 Ex Parte submission, which was filed in response to the Ex Parte Notice filed by Securus and Platinum Equity.¹ The July 21st Notice was a response to an apparent request by "certain staff in the Federal Communications Commission Wireline Competition Bureau ("WCB")."²

First, with regard to the "Post-Closing Initiatives" listed in the July 21 Ex Parte Notice, it is important to note that these initiatives, which will cost "approximately \$6 million," are funded solely through the unjust, unreasonable and unfair ICS rates and fees collected by Securus as detailed in the Wright Petitioners' Petition to Deny and Reply in the instant proceeding.³

¹ See *Wright Petitioners Ex Parte Presentation*, filed July 14, 2017 ("July 14 Ex Parte Notice").

² See *July 21 Ex Parte Notice*, pg. 1.

³ See *Id.*, pg. 2.

Thus, to the extent that Securus is making this new investment, it should be remembered that this \$6 million expenditure is but 1% of the total revenue earned by Securus in 2016 (\$583,659,000).⁴

Moreover, Securus announced in the July 21 Ex Parte Notice that it will make new Post-Closing Offerings to "one or more state departments of correction systems."⁵ However, Securus did not indicate which state department(s) of correction systems it will be receiving the new "offerings." Without that information, it is impossible to ascertain whether Securus had already promised these "offerings" pursuant to preexisting agreements, or if such "offerings" are requirements of the RFP(s) previously released by the department(s). Finally, in connection with the "Post-Closing Continued Support for Existing Programs" outlined by Securus in the July 21 Ex Parte Notice, it is impossible to ascertain the total value of these services.⁶

However, to the extent that it wishes to rely on these new "Post-Closing Initiatives" and their "Existing Programs," Securus utterly fails to demonstrate that these purported benefits even come close to offset the grievous harm caused to inmates and their families that continue to be charged unjust, unreasonable and unfair ICS rates and ancillary fees by Securus.

The Wright Petitioners have already demonstrated the extent to which Securus' practice of charging widely-divergent rates continues to occur:

- 24 correctional facilities serviced by Securus where the rate by which the intrastate ICS call increases by less than 1%.
- 47 correctional facilities serviced by Securus where the rate by which the intrastate ICS call increases by less than 5%,
- More than 200 correctional facilities serviced by Securus where the rate by which the intrastate ICS call for the 2nd minute increases by less than 10% of the first minute.⁷

⁴ See *Petition to Deny*, Exhibit F.

⁵ See *July 21 Ex Parte Notice*, pg. 2.

⁶ See *Id.*, pgs. 3-4.

⁷ See *Reply*, pg. 17.

Rather than making a promise to the Commission that it would terminate this practice, or promise that it would cease charging more than \$5.00 for the first minute of ICS calls in more than 100 counties,⁸ Securus and Platinum Equity have promised to spend 1% of its total revenue – earned solely from the inmates paying high first-minute rates – for the "Find A Job" Assistance Program. For the millions of inmates and loved ones wishing to remain in contact, this last-minute offering by Securus to obtain approval for the instant transaction is a day late, and millions of dollars short.

Finally, the July 20 Ex Parte Notice incorrectly asserted that the Wright Petitioners claimed Securus "had an advocacy role in state regulatory and legislative decisions...STI has had no such role in those state decisions."

Securus' straw-man argument must be rejected. In its July 14 Ex Parte Notice, the Wright Petitioners stated:

- Securus has been affirmatively advocating against state regulation of ICS rates and fees;
- Securus filed comments in Iowa requesting that Iowa cease regulating Securus' ICS rates;
- Securus opposed a petition for rulemaking proposing the adoption of intrastate ICS rate caps in Iowa;
- Securus has taken action in other states to eliminate oversight of ICS rates;
- Securus filed to withdraw and cancel its ICS rate tariff. Instead, Securus argued that Massachusetts has no authority over Securus' ICS rates because Securus offers "IP-Enabled services.";
- Securus attempted to block the recent efforts of the State of New Jersey to adopt ICS rate caps.; and
- It is unclear from the Notice whether Securus, its counsel, and counsel for Platinum Equity disclosed to the Commission's staff that these efforts to avoid state regulation of Securus' service offerings were in progress.⁹

⁸ See *Id.*, pg. 11.

⁹ July 14 Ex Parte Notice, pgs. 7-9.

Nothing submitted by Securus and Platinum Equity in their July 20 Ex Parte Notice undermines these statements.

Instead, while Securus and Platinum Equity would have the Commission focus solely on whether Securus played a role in the legislative actions, the Wright Petitioners' discussion of Iowa, Massachusetts and New Jersey focused on Securus' active efforts to exempt itself from state regulation by classifying its ICS platform as a VoIP or IP-enabled service. The Wright Petitioners conveniently provided the underlying filings by Securus in Iowa, Massachusetts and New Jersey so that the Commission could review the veracity of the Wright Petitioners' assertions, and take proper measure of the advocacy presented by Securus.

Lastly, Securus stated in its July 20 Ex Parte Notice that the three examples provided by the Wright Petitioners in their July 14 Ex Parte Notice were incorrect. As reflected in the submission, undersigned counsel relied on the public information made available by Securus on its own website.¹⁰

Presumably, Securus relies on its rate calculator to comply with the requirement set forth in Section 64.6110 of the Commission's rules to:

clearly, accurately, and conspicuously disclose their interstate, intrastate, and international rates and Ancillary Service Charges to consumers on their Web sites or in another reasonable manner readily available to consumers.¹¹

To the extent that Securus has failed to accurately maintain its Consumer Disclosure information, it should not then blame the public for relying on that very same information.

In sum, absent from any of the Securus submissions to date in this proceeding is a justification for charging more than \$5.00 for the first minute of calls from 100+ facilities, or charging second rate minutes that infinitesimal as compared to the first-minute rates charged in more than 50 correctional facilities across the country. Based on the publically-available information, Securus charges

¹⁰ See Reply, pg. 7, Exhibit B (providing the results from Securus' Rate Calculator).

¹¹ 47 C.F.R. §64.6110 ("Consumer disclosure of Inmate Calling Services rates.").

more than \$20 for a fifteen minute intrastate ICS rate at more than 15 facilities, up to \$24.95 for a fifteen minute call in Arkansas County, Arkansas.¹²

To the extent that the only explanation from Securus and Platinum is that there is no current regulation against such practices, they have utterly failed to demonstrate that the instant transaction serves the public interest, convenience and necessity.

Should you have any questions regarding these matters, please contact undersigned counsel.

Respectfully submitted,



Lee G. Petro

Counsel for the Wright Petitioners

cc (by/email):

Chairman Ajit Pai

Commissioner Mignon Clyburn

Commissioner Michael O'Rielly

Brendan Carr, General Counsel

Kris Monteith, Chief, Wireline Competition Bureau

Tom Sullivan, Chief, International Bureau

Kristine Fargostein, Office of Chairman Pai

Jay Schwarz, Office of Chairman Pai

Jim Bird, Office of General Counsel

Madeline Findley, Wireline Competition Bureau

Daniel Kahn, Wireline Competition Bureau

Jodie May, Wireline Competition Bureau

Sherwin Siy, Wireline Competition Bureau

Tracey Wilson, Wireline Competition Bureau

David Krech, International Bureau

Sumita Mukhoty, International Bureau

Paul C. Besozzi, Counsel for Transferor and Licensees

William B. Wilhelm, Jr., Counsel for the Transferee

¹² See *Petition to Deny*, Exhibit D.