



PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

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February 26, 2016

Via electronic mail and surface mail

Ms. Sara Clark
Department Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

Re: D.T.C. 11-16

Dear Ms. Clark:

Enclosed please find an original and seven copies of the Plaintiffs' Assent to the Intervention of Network Communications International Corporation.

Many thanks for your attention to this matter.

Sincerely,

Bonita Tenneriello
Staff Attorney

cc: Parties of Record

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

No. D.T.C. 11-16

**PETITION OF RECIPIENTS OF COLLECT CALLS FROM
PRISONERS AT CORRECTIONAL INSTITUTIONS IN MASSACHUSETTS
SEEKING RELIEF FROM
THE UNJUST AND UNREASONABLE COST OF SUCH CALLS**

**PETITIONERS' ASSENT TO THE INTERVENTION OF
NETWORK COMMUNICATIONS INTERNATIONAL CORPORATION**

The Petitioners hereby express their assent to the Petition of Network Communications International Corporation for Late Intervention and Request for Inclusion on the Service List. NCIC's participation in this case.

Global Tel*Link (GTL) and Securus impose far too narrow a reading of the requirement that a proceeding "substantially and specifically" affect a proposed intervenor. 20 CMR 1.103(1)(b). The outcome of this proceeding will substantially and specifically affect all Inmate Calling Service (ICS) providers who seek in coming years to provide ICS in Massachusetts. The fact that NCIC does not currently contract to provide ICS in Massachusetts is irrelevant. The state's current rate structure, high facility commissions, and resulting market distortions may well have kept NCIC from seeking or obtaining a contract. The outcome of this proceeding will "substantially and specifically" affect the decision of NCIC and other providers not currently in Massachusetts as to whether to enter the Massachusetts market in the future. These decisions in turn directly affect the Petitioners, as increased competition may affect the contracted rates that they pay for ICS.

A second, and crucial, reason to permit intervention is that it will benefit the Hearing Officer's determination of the merits of this case by providing more information. In its Second

Report and Order, the Federal Communications Commission noted a large variation in costs reported by providers. The FCC observed that the reported costs of the seven largest firms (including GTL and Securus) exceeded the costs of smaller firms, when economies of scale would lead one to expect the reverse. *See* Second Report and Order ¶¶ 60, 61. The FCC concluded that either the larger firms' costs are above efficient levels, or those firms are inefficiently large and should not be subsidized. *Id.* The FCC also noted that other providers had asserted flaws in the data provided by GTL and Securus, and disputed GTL and Securus' claims that the FCC's proposed rates were too low to permit cost recovery. *Id.* at ¶ 70. GTL and Securus were criticized for claiming a cost of capital of 11.25 percent, without supporting this rate, and for also including the cost of financing and interest expenses, potentially double-counting those expenses. ¶72.

The FCIC did not establish rates based solely on the data submitted by GLT and Securus, and the Department should also welcome the opportunity for a broader data set. GTL and Securus' opposition to NCIC's intervention is consistent with their opposition to the Federal Communications Commission's rates-setting in its Second Report and Order, which NCIC supported. *See* Second Order, ¶ 56 and n. 176. The Petitioners urge the Department to allow the intervention of NCIC and thereby hear a diversity of voices from within the ICS industry.

Date: February 26, 2015

Respectfully submitted:



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