

May 30, 2014

Paul C. Besozzi
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BY ELECTRONIC FILING AND FEDERAL EXPRESS

Ms. Catrice C. Williams
Secretary
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820
Boston, MA 02118

Re: Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls – D.T.C. 11-16 – Motion Of Securus Technologies, Inc. To Compel Petitioners’ Responses To First Set Of Information Requests (Securus 1-43 To 1-49)

Dear Ms. Williams:

In accordance with the Procedural Order, dated February 27, 2014, as amended by the Order On Motion For Extension Of Time, dated April 18, 2014 (collectively “Order”), enclosed for filing is an original of the Motion Of Securus Technologies, Inc. To Compel Petitioners’ Responses To First Set Of Information Requests (Securus 1-43 To 1-49) and accompanying Brief and Certificate (“Motion To Compel”).

Per Section II.A. of the Order, the Motion to Compel is being filed electronically with the original and requisite copies prescribed by Section II.A.3., and transmitted via overnight delivery.

An extra copy of this transmittal letter is enclosed to be stamped-in or otherwise marked as received and returned in the enclosed envelope.

Sincerely yours,



Paul C. Besozzi

cc: Service List for D.T.C. 11-16

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

**Petition of Recipients of Collect Calls
from Prisoners at Correctional Institutions
in Massachusetts Seeking Relief from the Unjust
and Unreasonable Cost of such Calls**

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) **D.T.C. 11-16**
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**MOTION OF SECURUS TECHNOLOGIES, INC. TO COMPEL PETITIONERS'
RESPONSE TO FIRST SET OF INFORMATION REQUESTS (SECURUS 1-43 TO 1-49)**

Securus Technologies, Inc. (“Securus” or “Company”), acting through the undersigned counsel and in accordance with the Procedural Order, dated February 27, 2014, as amended by the Order On Motion For Extension Of Time, dated April 18, 2014,¹ and 220 CMR §1.06:(6)(c)(4), does hereby move to compel Petitioners’ complete response to Securus’s First Set Of Information Requests, Securus 1-43 to 1-49.

Specifically, Securus moves to compel responses for the nineteen (19) specific Petitioners from whom Petitioner Prisoners’ Legal Services (“PLS”) concedes, as of this date, it has not provided any responses.² In accordance with Section II.D.3. of the Procedural Order, Securus submits the attached brief in support of its motion.

¹ 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*, Procedural Order, February 27, 2014, as amended by the Order On Motion For Extension Of Time, dated April 18, 2014 (collectively, “Procedural Order”).

² PLS has been acting on behalf of the other Petitioners in responding to Securus’s First Set Of Information Requests. The 19 Petitioners referenced above are as follows: Peter T. Sargent, Louis M. Badwey, Frank D. Camera, John H. Cunha Jr., John G. Darrell, Michael DiGioia, Gregory DiPaolo, Anne E. Gowen, James S. Murphy, Anne Roche, Frank H. Spillane, Leonardo Alzarez-Savageau, Kenneth Moccio, Shirley Jay MacGee, Samuel Conti, Stephen Metcalf, Marcos Ramos, Christina Rapoza, and Gerardo Rosario.

For the reasons explained herein, and as supported by the attached brief, Securus moves that this Motion To Compel be granted.

Respectfully submitted,

SECURUS TECHNOLOGIES, INC.

By: 

Paul C. Besozzi
Patton Boggs LLP
2550 M Street NW
Washington DC 20037
202-457-5292

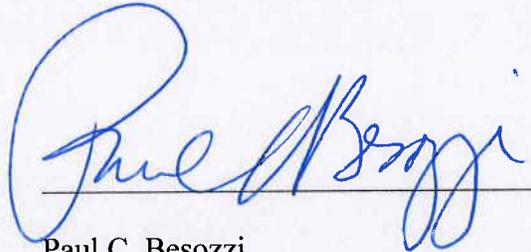
Dated: May 30, 2014

CERTIFICATE OF SERVICE

I, Paul C. Besozzi, hereby certify that on this 30th day of May, 2014, I did serve, by Federal Express or first class mail, postage prepaid or by electronic mail a copy of the foregoing "Motion Of Securus Technologies, Inc. To Compel Petitioners Response To First Set Information Requests (Securus 1-43 To 1-49)" on the parties listed on the Service List below issued by the Department:

<p>Kalun Lee Hearing Officer Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 kalun.lee@state.ma.us Via Federal Express and Electronic Mail</p>	<p>Karlen Reed Director, Competition Division Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 karlen.reed@state.ma.us Via Federal Express and Electronic Mail</p>
<p>Paul Abbott General Counsel Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 paul.abbott@state.ma.us Via Federal Express and Electronic Mail</p>	<p>Joseph Tiernan Competition Division Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 joseph.tiernan@state.ma.us Via Federal Express and Electronic Mail</p>
<p>James Pingeon, Esq. Bonita Tenneriello, Esq. Elizabeth Matos, Esq. Alphonse Kamanzi Prisoners' Legal Services, Inc. 10 Winthrop Square, 3rd Floor Boston, MA 02110 jpingeon@plsma.org btenneriello@plsma.org lmatos@plsma.org akamanzi@plsma.org Via Electronic and U.S. Mail</p>	<p>Patricia Garin, Esq. Stern, Shapiro, Weisberg & Garin 90 Canal St., 5th Floor Boston, MA 02114 pgarin@sswg.com Via Electronic and U.S. Mail</p>

<p>Catrice C. Williams Secretary Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 catrice.williams@state.ma.us dte.efiling@state.ma.us Via Federal Express and Electronic Mail</p>	<p>Ken Dawson VP Contracts & Regulatory Inmate Calling Solutions, LLC d/b/a ICSolutions 2200 Danbury St. San Antonio, TX 78217 kdawson@icsolutions.com Via Electronic and U.S. Mail</p>
<p>Curtis Hopfinger Director, Regulatory and Government Affairs Securus Technologies, Inc. 14651 Dallas Parkway, Ste. 600 Dallas, TX 75254 chopfinger@csecurstech.net Via Electronic and U.S. Mail</p>	<p>Chèrie Kiser Angela F. Collins Cahill Gordon & Reindel LLP 1990 K Street NW Suite 950 Washington DC 20006 ckiser@cgrdc.com acollins@cgrdc.com Via Electronic and U.S. Mail</p>



Paul C. Besozzi

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

)
Petition of Recipients of Collect Calls)
from Prisoners at Correctional Institutions)
in Massachusetts Seeking Relief from the Unjust)
and Unreasonable Cost of such Calls)
_____)

D.T.C. 11-16

**BRIEF IN SUPPORT OF MOTION OF SECURUS TECHNOLOGIES, INC. TO
COMPEL PETITIONERS' RESPONSE TO FIRST SET OF INFORMATION
REQUESTS (SECURUS 1-43 TO 1-49)**

Securus Technologies, Inc. ("Securus" or "Company"), acting through the undersigned counsel and in accordance with the Procedural Order, dated February 27, 2014, as amended by the Order On Motion For Extension Of Time, dated April 18, 2014,¹ and 220 CMR § 106:(6)(c)(4), hereby submits this brief in support of its Motion to Compel Petitioners Response To First Set Of Information Requests, which requests that Petitioners be directed to respond fully to Securus's Information Requests Nos. 1-43 to 1-49.

Specifically, Securus moves to compel responses for nineteen (19) specific Petitioners from whom Petitioner Prisoners' Legal Services ("PLS") concedes, as of this date, it has not provided any responses.²

¹ 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*, Procedural Order, February 27, 2014, as amended by the Order On Motion For Extension Of Time, dated April 18, 2014 (collectively, "Procedural Order").

² PLS has been acting on behalf of the other Petitioners in responding to Securus's First Set Of Information Requests. The 19 Petitioners referenced above are as follows: Peter T. Sargent, Louis M. Badwey, Frank D. Camera, John H. Cunha Jr., John G. Darrell, Michael DiGioia, Gregory DiPaolo, Anne E. Gowen, James S. Murphy, Anne Roche, Frank H. Spillane, Leonardo Alvarez-Savageau, Kenneth Moccio, Shirley Jay MacGee, Samuel Conti, Stephen Metcalf, Marcos Ramos, Christina Rapoza, and Gerardo Rosario.

I. BACKGROUND

On March 10, 2014, Securus submitted its First Set Of Information Requests to Petitioners (“Securus Information Requests”), directed to PLS. Consistent with the discovery schedule outlined in the Procedural Order, the Securus Information Requests were timely filed with the Department of Telecommunications and Cable (“DTC” or “Department”) as well. There were fifty one (51) information requests directed to the Petitioners. PLS, on behalf of various Petitioners, submitted its responses to Securus on April 29, 2014, at the same time as it submitted responses to Information Requests posed by Global Tel Link (“GTL”).

Securus’s information requests Nos. 1-43 through 1-49 requested information that pertained to PLS and each of the other Petitioners that have been a party to the investigation. Those information requests and PLS responses thereto are attached hereto as Exhibit 1.

As reflected in Exhibit 1, each of those PLS responses to Securus referred to documents produced in response to Information Requests about the individual Petitioners posed by GTL in this investigation. Specifically, PLS produced individual responses for itself and a number of other, different Petitioners, and provided accompanying documents, where there were such documents to provide. Again, in responding to Securus 1-43 through 1-49, PLS consistently referred to “documents they have produced in response to GTL’s information requests of each of the Petitioners.”³

However, PLS noted, in its own response to DTC-GTL-1-1, as follows:

“PLS has provided separate responses with respect to each Petitioner, attached to this document. As of this date, PLS has not received responses from the following Petitioners: Peter T. Sargent, Louis M. Badwey, Frank D. Camera; John H. Cunha Jr., John G. Darrell, Michael DiGioia, Gregory

³ D.T.C. 11-16, PLS’s Response to Securus’s First Information Request at 20-21, *Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls* (filed Apr. 29, 2014).

DiPaolo, Anne E. Gowen, James S. Murphy, Anne Roche, Frank H. Spillane, Leonardo Alzarex-Savageau, Kenneth Moccio, Shirley Jay MacGee, Samuel Conti, Stephen Metcalf, Marcos Ramos, Christina Rapoza, and Gerard Rosario.

PLS will continue to make diligent efforts to secure responses from these petitioners and produce them as soon as possible after receipt.”⁴

On May 23, 2014, Securus counsel met telephonically with PLS counsel to discuss and confer on discovery issues. Securus counsel had raised the status of responses from these nineteen (19) Petitioners in an electronic message delivered on May 21, with a list of matters that Securus desired to discuss during the planned telephonic meeting. At the meeting, PLS counsel conceded that these responses remained outstanding and indicated that at that point they could not say when such responses might be produced. As of the filing of its Motion To Compel, none have been produced and there has been no indication from PLS counsel as to when they might be produced.

II. ARGUMENT

Discovery is intended to permit “the parties and the Department to gain access to all relevant information in an efficient and timely manner,” in order “to protect the rights of the parties[] and ensure that a complete and accurate record is compiled.”⁵ The appropriate standard under which to consider “[a] Motion to Compel discovery responses is whether the information requested is relevant or likely to lead to the discovery of admissible evidence.”⁶ In other words,

⁴ D.T.C. 11-16, PLS’s Response to GTL’s First Information Request at 2, *Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls* (filed Apr. 29, 2014).

⁵ 220 C.M.R. §1.106:(6)(c)(1).

⁶ *Verizon New England, Inc.*, Interlocutory Order on Verizon’s Appeal of Hearing Officer’s August 8, 2001 Ruling on Motions To Compel, D/T/E/ 01-20, 2001 WL 1448568, at *7 (Mass. D.T.E. August 31 2001). See *Fiber Technologies Networks, LLC*, Interlocutory Order on Motion of Fiber Technologies Networks for Summary Judgment and on Appeals of Fiber Technologies Networks from Hearing Officer Rulings on Motion to Compel Responses to Information Requests, 2002 WL 32101642 (Mass. D.T.E.)(Dec. 24, 2002 (“the threshold to obtaining

would the information sought “tend to prove facts of consequence to issues material to the investigation.”⁷

Securus respectfully submits that it has met that standard here. PLS and ___ Petitioners have provided responses to Securus’s First Set Of Information Requests Nos. 1-43 through 1-49 via their responses to GTL. PLS raised no objections with Securus as to the relevancy of its inquiries, which seek information about the individual experiences of Petitioners relating to the issues raised by their Complaint in this proceeding, and the issues approved for investigation in this proceeding. Again, PLS has provided, in connection with itself and a number of other Petitioners, responses to Securus Information Requests. It has indicated that it is seeking to do the same with these nineteen (19) Petitioners, but has provided no assurance or time line for doing so. Securus is not prepared to waive its right to receive these responses and has therefore moved to compel that they be provided as soon as possible and in no event later than five (5) calendar days after the Hearing Officer rules favorably on its Motion To Compel.

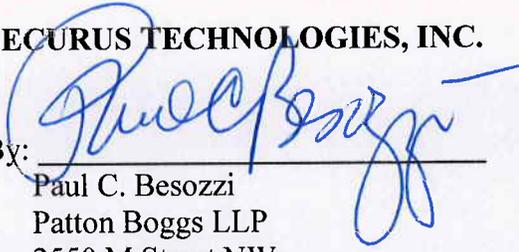
discovery . . . is that the information sought must be relevant, that is, it relates or pertains to legal or factual issues in the case or is reasonably calculated to lead to discovery of admissible evidence”).

⁷ *New England Tel. & Tel. Co.*, Interlocutory Order on Attorney General’s Appeal of Hearing Officer’s Ruling Denying Record Requests of Attorney General and NECTA at *5, 1994 WL 714133 (Mass. D.P.U.)(Sept. 22, 1994).

For all the foregoing reasons, Securus's Motion To Compel should be granted promptly.

Respectfully submitted,

SECURUS TECHNOLOGIES, INC.

By: 

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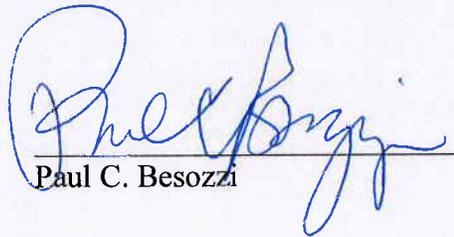
Dated: May 30, 2014

CERTIFICATE

In accordance with Section II.D.3 of the Procedural Order, the undersigned counsel and Koyulyn Miller of Patton Boggs LLP participated in a telephonic conference to discuss discovery issues with counsel for Prisoners' Legal Services ("PLS") on Friday, May 23, 2014, starting at 11:30 a.m. Participating on behalf of PLS were Ms. Bonnie Tenneriello and Ms. Elizabeth Matos.

Securus counsel had included in an electronic message to PLS counsel on Wednesday, May 21, 2014, regarding the list items to be discussed, an inquiry related to the outstanding responses of twenty-one (21) Petitioners relevant to Securus's First Set Of Information Requests 1-43 through 1-49. At the time, PLS counsel were unable to indicate when such responses by such Petitioners would be submitted.

Dated: May 30, 2014



Paul C. Besozzi

EXHIBIT 1

Massachusetts indicates that ICS rates in Massachusetts are greatly different from rates charged to the general public.

SECURUS-1-42. To the extent not previously requested, please provide identify and provide copies of all documents relating to and relied upon in preparing all Appendices to the Petition.

Response: Petitioners object insofar as this seeks information already in the possession of Securus. Without waiving this objection, Petitioners state that all responsive documents were identified and provided in Petitioners responses to 1-4, 1-6, 1-14, 1-15, and 1-38.

SECURUS-1-43. On page 3 of the Amendment #1 and Supplement On Quality of Service ("Amendment #1"), Petitioners indicate that each of Petitioners requested prisoner telephone service. Please identify and provide copies of all documents other than the Affidavits of Petitioners, relating to and relied upon as a basis for the claim that each of Petitioners requested such service.

Response: The Petitioners refer to the documents produced in response to GTL's information requests of each of the Petitioners, as well as to all documentation attached to the Petition and Amendments.

SECURUS-1-44. On page 3 of Amendment #1, reference is made to Petitioners as "customer of record" of Evercom Systems, Inc. and Correctional Billing Services, Inc. Please identify and provide copies of all documents, other than the Affidavits of Petitioners, relating to and relied upon to support the claims that certain Petitioners are "customers of record" of Evercom Systems, Inc. and/or Correctional Billing Services, Inc.

Response: The Petitioners refer to the documents produced in response to GTL's information requests of each of the Petitioners, as well as to all documentation attached to the Petition and Amendments.

SECURUS-1-45. With respect to Appendix 1 to Amendment #1, please identify and provide copies of all documents, other than the Affidavits of Petitioners, relating to and relied upon in preparing said Appendix 1.

Response: The petitioners object to the extent that this request calls for the production of attorney work product.

Without waiving this objection, the Petitioners state that they have no responsive documents other than what is included in the documents they have produced in response to GTL's information requests of each of the Petitioners.

SECURUS-1-46. On page 5 of Amendment #1, Petitioners state that "data in this section are drawn primarily from Affidavits submitted by Petitioners." Please identify and provide copies of all other documents, other than said Affidavits, relating to and

relied upon in preparing the data in Section IV relating to Evercom Systems, Inc. or Correctional Billing Services, Inc.

Response: The petitioners object to the extent that this request calls for the production of attorney work product and privileged attorney-client communications.

Without waiving this objection, the Petitioners refer to the documents they have produced in response to GTL's information requests of each of the Petitioners.

SECURUS-1-47. Please identify and provide copies of all documents, other than the Affidavits of Petitioners, reflecting complaints or comments or requests submitted by Petitioners to Evercom Systems, Inc., Correctional Billing Services, Inc. the Department, the FCC, or any other Federal or State agency or office or private agency or office, including the Massachusetts Office of Consumer Affairs and Business Regulation and Better Business Bureau in connection with the claims relating to "connection problems", disconnected calls, "call reporting and details of charges", or "customer service problems" as discussed in Sections IV.A.ii., IV.B.ii., IV.C.ii. and IV.D.ii. of Amendment #1, including all billing records, service adjustments or other statements reflecting any calls referred to and when such calls were made.

Response: The petitioners refer to the documents they have produced in response to GTL's information requests of each of the Petitioners.

SECURUS-1-48. With respect to the Petitioners added by Amendment #2 – Additional Petitioners, please identify and provide copies of all documents, other than the Affidavits supplied by the Additional Petitioners, relating to and relied upon to establish that each of the Additional Petitioners receives telephone calls from prisoners in state or county correctional facilities in Massachusetts, including any billing statements or other form of customer records reflecting any calls referred to and when such calls were made.

Response: The petitioners refer to the documents they have produced in response to GTL's information requests of each of the Petitioners.

SECURUS-1-49. With respect to the Petitioners added by Amendment #2 – Additional Petitioners please identify and provide copies of all documents, other than the Affidavits of Petitioners, reflecting complaints or comments or requests submitted by Petitioners to Evercom Systems, Inc., Correctional Billing Services, Inc. the Department, the FCC, or any other Federal or State agency or office or private agency or office, including the Massachusetts Office of Consumer Affairs and Business Regulation and Better Business Bureau in connection with the claims reflected in the Affidavits of the Additional Petitioners.

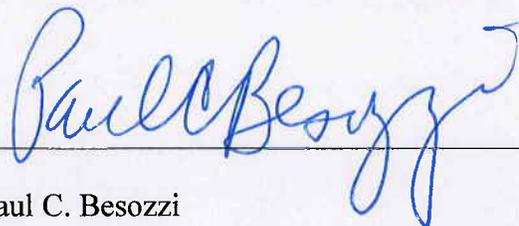
Response: The petitioners refer to the documents they have produced in response to GTL's information requests of each of the Petitioners.

CERTIFICATE OF SERVICE

I, Paul C. Besozzi, hereby certify that on this 30th day of May, 2014, I did serve, by Federal Express or first class mail, postage prepaid or by electronic mail a copy of the foregoing “Brief In Support Of Motion Of Securus Technologies, Inc. To Compel Petitioners Response To First Set Of Information Requests (Securus 1-43 To 1-49)” on the parties listed on the Service List below issued by the Department:

<p>Kalun Lee Hearing Officer Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 kalun.lee@state.ma.us Via Federal Express and Electronic Mail</p>	<p>Karlen Reed Director, Competition Division Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 karlen.reed@state.ma.us Via Federal Express and Electronic Mail</p>
<p>Paul Abbott General Counsel Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 paul.abbott@state.ma.us Via Federal Express and Electronic Mail</p>	<p>Joseph Tiernan Competition Division Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 joseph.tiernan@state.ma.us Via Federal Express and Electronic Mail</p>
<p>James Pingeon, Esq. Bonita Tenneriello, Esq. Elizabeth Matos, Esq. Alphonse Kamanzi Prisoners’ Legal Services, Inc. 10 Winthrop Square, 3rd Floor Boston, MA 02110 jpingeon@plsma.org btenneriello@plsma.org lmatos@plsma.org akamanzi@plsma.org Via Electronic and U.S. Mail</p>	<p>Patricia Garin, Esq. Stern, Shapiro, Weisberg & Garin 90 Canal St., 5th Floor Boston, MA 02114 pgarin@sswg.com Via Electronic and U.S. Mail</p>

<p>Catrice C. Williams Secretary Department of Telecommunications and Cable 1000 Washington Street, 8th Floor, Suite 820 Boston MA 02118-6500 catrice.williams@state.ma.us dte.efiling@state.ma.us Via Federal Express and Electronic Mail</p>	<p>Ken Dawson VP Contracts & Regulatory Inmate Calling Solutions, LLC d/b/a ICSolutions 2200 Danbury St. San Antonio, TX 78217 kdawson@icsolutions.com Via Electronic and U.S. Mail</p>
<p>Curtis Hopfinger Director, Regulatory and Government Affairs Securus Technologies, Inc. 14651 Dallas Parkway, Ste. 600 Dallas, TX 75254 chopfinger@csecurstech.net Via Electronic and U.S. Mail</p>	<p>Chèrie Kiser Angela F. Collins Cahill Gordon & Reindel LLP 1990 K Street NW Suite 950 Washington DC 20006 ckiser@cgrdc.com acollins@cgrdc.com Via Electronic and U.S. Mail</p>



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