

September 8 , 2014

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**BY ELECTRONIC FILING AND FEDERAL EXPRESS**

Ms. Catrice C. Williams  
Secretary  
Department of Telecommunications and Cable  
1000 Washington Street, 8<sup>th</sup> 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 – Reply Of Securus Technologies, Inc. To Petitioners’ Opposition To Securus’s Motion To Compel Petitioners’ Responses To Information Requests**

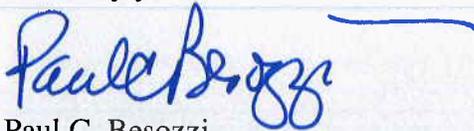
Dear Ms. Williams:

In accordance with the Procedural Order, dated February 27, 2014, as amended by the Orders On Motion For Extension Of Time, dated April 18, 2014 and June 5, 2014, and the Hearing Officer’s Order On Petitioners’ Assented-To Motion For Leave To Reply, dated July 30, 2014 (collectively “Order”), enclosed for filing is an original of the Reply Of Securus Technologies, Inc. To Petitioners’ Opposition To Securus’s Motion To Compel Petitioners’ Responses To Information Requests (“Reply”).

Per Section II.A. of the original Procedural Order, the Reply 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 the Reply 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

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Petition of Recipients of Collect Calls	)	
from Prisoners at Correctional Institutions	)	
in Massachusetts Seeking Relief from the Unjust	)	D.T.C. 11-16
and Unreasonable Cost of such Calls	)	
	)	

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**REPLY OF SECURUS TECHNOLOGIES, INC. TO PETITIONERS' OPPOSITION TO  
SECURUS'S MOTION TO COMPEL PETITIONERS' RESPONSES TO  
INFORMATION REQUESTS**

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 Orders on Motion for Extension of Time, dated April 18, 2014 and June 5, 2014,<sup>1</sup> and the Hearing Officer’s “Order On Petitioners’ Assented-To Motion For Leave To Reply,” dated July 30, 2014 (“Reply Order”),<sup>2</sup> hereby briefly replies to Petitioners’ Opposition To Respondents’ (GTL and Securus) Motions To Compel Responses To Respondents’ Interrogatories and Requests For Production Of Documents, dated June 25, 2014 (“Petitioners’ Opposition”). In support of its Reply, Securus sets forth the following:

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<sup>1</sup> See 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)(amended by Orders on Motion for Extension of Time, dated April 18, 2014 and June 5, 2014)(collectively, “Procedural Order”).

<sup>2</sup> Securus’s Reply is timely filed as the Reply Order set September 8, 2014 as the deadline for any replies.

**I. PETITIONERS CANNOT BE PERMITTED TO INDEFINITELY DELAY PROVIDING RESPONSES**

Some six (6) months after Securus served its First Set Of Information Requests on Petitioners on March 11, 2014 (“Requests”), ten (10) of the individual Petitioners have yet to respond in any degree to certain Requests regarding their specific claims.<sup>3</sup>

Two (2) other Petitioners, who had not responded previously to those Requests, are now, according to Petitioner Prisoners’ Legal Services (“PLS”), no longer going to proceed in this case.<sup>4</sup> So there are and will be no responses to the Requests from these individuals.

Securus appreciates that PLS has undertaken to act on behalf of, and obtain responses from, all the Petitioners listed in Amendment No. 2 to the Petition. Securus further appreciates the additional nine (9) responses provided on June 25, 2014 in conjunction with Petitioners’ Opposition.<sup>5</sup>

Ultimately, it is the responsibility of individual Petitioners to respond. Petitioner PLS reports that the remaining ten (10) Petitioners still “are in the process of gathering responsive

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<sup>3</sup> The ten (10) are Petitioners Frank D. Camera, John G. Darrell, Michael DiGioia, Frank H. Spillane, Leonardo Alvarez-Savageau, Shirley Jay McGee, Stephen Metcalf, Gerardo Rosario, Christine Rapoza and Shirley Turner. The relevant Requests are Nos. 1-43 through 1-49. See 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*, Motion of Securus Technologies, Inc. To Compel Petitioners’ Response To First Set Of Information Requests (Securus 1-43 To 1-49) (May 30, 2014).

<sup>4</sup> They are Kenneth Moccio and James S. Murphy. 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’ Third Supplemental Response To Global Tel\*Link Corporation’s First Set Of Information Requests To Petitioners (June 25, 2014)(“Third Response”). Since they are no longer to be participating in the investigation, information concerning these Petitioners (e.g., their affidavits and any other materials relating to them) should be stricken from the record in this investigation.

<sup>5</sup> See 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*, AMENDMENT #2: Additional Petitioners, Attachment B (April 27, 2011). These are Anne E. Gowen, Peter T. Sargent, Louis M. Badwey, John H. Cunha Jr., Gregory DiPaolo, Anne Roche, Marcos Ramos, Cheryl Williams and Samuel Conti.

documentation and information, but need additional time.”<sup>6</sup> However, PLS does not indicate exactly how much time it requires, and why, after six (6) months, these Petitioners have been unable to respond in any degree. Indeed, PLS seeks in effect an unlimited amount of additional time, until the unspecified date that will be the close of discovery, for these Petitioners to make their initial responses to Securus’s Requests.

Yet at the same time Petitioner PLS asserts that such an indefinite period is justified because “given their past involvement in this case and – in the case of one missing petitioner – participation in the public hearing, it is *likely* that these Petitioners *will wish* to continue their involvement in this case.”<sup>7</sup> Securus respectfully submits that after six (6) months Petitioner PLS should be able to determine definitively whether or not these Petitioners in fact do wish to continue to participate and now represent to the Department and Respondents what is the case in that regard with respect to each such Petitioner, rather than leaving the Department and Respondents guessing as to the answer and when they might be forthcoming with any responses.

The Procedural Order originally provided some fifty days beyond the normal five (5) day time period for responding to discovery requests.<sup>8</sup> That time period was further extended by an additional seven (7) days.<sup>9</sup> Since that extension (until the end of April) Petitioners have had in effect an additional “extension” of over four (4) months to provide initial responses from these Petitioners, without having to seek leave of the Department to do so.

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<sup>6</sup> Petitioners’ Opposition, p.3. PLS further claims that “[c]ounsel is expecting responses from additional petitioners and is still attempting to locate other petitioners.” Third Response.

<sup>7</sup> *Id.* (emphasis supplied).

<sup>8</sup> 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, Sections I and II(D)(1), pp. 1, 4 (February 27, 2014).

<sup>9</sup> 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*, Order On Motion For Extension Of Time (April 18, 2014).

Petitioner PLS states that the Department's Procedural Rules and Massachusetts Rules of Civil Procedure support the right of PLS to supplement its responses. Securus respectfully submits that assumes that there have been responses made in the first place to supplement. For the ten (10) individual Petitioners at issue – who are “likely ... to wish to continue their involvement in this case” – there have been no responses at all to supplement. The rules should not permit the indefinite delay of initial responses by characterizing them as “supplements.”

Petitioner PLS has had six (6) months to gather responsive information and documentation. As they have done with the other eleven (11) Petitioners for whom there were no responses in the record by April 29, Petitioner PLS is just extending the time period during which these Petitioners originally contended that they had issues – long after their original affidavits and filing in this case.

At the very minimum, Petitioner PLS should be required to definitively indicate, by September 15, 2014 (a) whether any of these ten (10) individual Petitioners are going to provide initial responses to the Requests and (b) for any for which the answer is yes, they should be required to submit those responses by no later than September 30, 2014. If the answer is no or they fail to provide responses by September 30, 2014, then Securus respectfully submits these ten (10) Petitioners should be stricken as Petitioners in this investigation and all information related to those Petitioners should also be stricken.<sup>10</sup>

## **II. ANY HEARING SHOULD BE TELEPHONIC AND COVER ALL MOTIONS**

Petitioner PLS has requested a hearing on its Motions To Compel the Respondents. If the Hearing Officer deems such a hearing necessary, then Securus respectfully requests that it be

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<sup>10</sup> When a party fails to respond to discovery, the Department has the authority to compel a response, impose appropriate sanctions under Mass. R. Civ. P. 37, and take other remedial steps. 220 C.M.R. § 1.06(6)(c)(4); *see* Mass. R. Civ. P. 32(b)(2).

conducted by telephone and cover all of the pending Motions To Compel (i.e., include those filed by the Respondents).

**III. CONCLUSION**

Information concerning Petitioners Kenneth Moccio and James S. Murphy should be stricken from the record in this investigation.

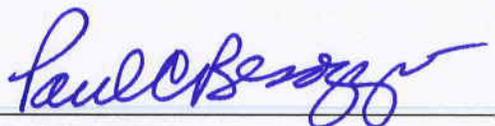
Petitioner PLS cannot be given an open-ended, unspecified time period for providing initial responses to the Requests. Such continued delay is not sanctioned by the discovery rules or precedent. Either they are participating Petitioners in this investigation or they are not. They have had plenty of time to decide.

At the very minimum, Petitioner PLS should be required to definitively indicate, by September 15, 2014 (a) whether any of these ten (10) individuals are going to provide initial responses to the Requests and (b) for any for which the answer is yes, they should be required to submit those responses by September 30, 2014 or be stricken as Petitioners in this investigation and all information related to those Petitioners should also be stricken.

Any hearing should be telephonic and cover all pending motions to compel.

Respectfully submitted,

**SECURUS TECHNOLOGIES, INC.**

By: 

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Koyulyn K. Miller  
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2550 M Street NW  
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202-457-6000

Dated: September 8, 2014

**CERTIFICATE OF SERVICE**

I, Paul C. Besozzi, hereby certify that on this 8th day of September, 2014, I did serve, by Federal Express or first class mail, postage prepaid or by electronic mail a copy of the foregoing “Reply Of Securus Technologies, Inc. To Petitioners’ Opposition To Securus’s Motion To Compel Petitioners’ Responses To Information Requests” on the parties listed on the Service List below issued by the Department:

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