

May 23, 2016

BY ELECTRONIC FILING AND FEDERAL EXPRESS

Ms. Sara Clark
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 – Reply Brief Of Securus Technologies, Inc.

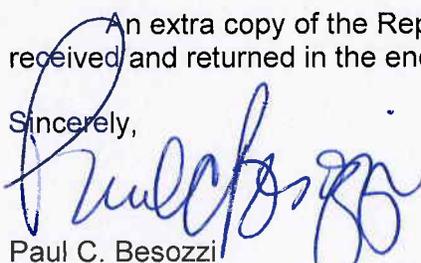
Dear Ms. Clark:

In accordance with 220 CMR 1.102:(5) enclosed for filing is an original of the Reply Brief Securus Technologies, Inc. required by the Notice Of Briefing Schedule, dated March 18, 2016. ("Reply Brief"). This filing is timely based on the Hearing Officer Ruling On Securus Technologies Inc. Motion For Extension Of Time, dated March 28, 2016.

Per Section II.A. of the original Procedural Order in this matter, the Reply Brief 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 Brief is enclosed to be stamped-in or otherwise marked as received and returned in the enclosed envelope.

Sincerely,


Paul C. Besozzi
Counsel For Securus Technologies, Inc.

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) D.T.C. 11-16
in Massachusetts Seeking Relief from the Unjust)
and Unreasonable Cost of such Calls)

REPLY BRIEF OF SECURUS TECHNOLOGIES, INC.

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Dated: May 23, 2016

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Department of Telecommunications and Cable (“DTC” or “Department”) authorized to be investigated in this complaint proceeding.⁴

SUMMARY

The Petitioners’ complaint investigation should be closed in its entirety. The major remaining issues — the Department–approved \$3.00 per-call surcharge and ancillary fees and charges — have been addressed by the FCC Order. Per that Order, effective June 20, 2016, the “rates” that were the subject of the Petitioners’ complaint either will no longer be charged or will be reduced in Massachusetts.⁵

The Department twice rejected Petitioners’ complaint to investigate the Department–approved \$0.10 per-minute usage charge rate cap.⁶ Moreover, the issue of how the Department will potentially restructure the incentive-based regulatory scheme it adopted in 1998, and affirmed thereafter, should not be addressed in a complaint proceeding. The Petitioners will not be without the opportunity to present their views to the Department on this issue should they wish to do so.

Petitioners’ complaints about service quality and billing details continue to be broad, lacking detail and now anonymous and without specific facts. Dropped call complaints based on the requirement to pay multiple per-call charges are now ameliorated by the FCC ban on such charges. Identified Petitioners originally raising complaints involving Securus have not lodged any complaints about these issues with Securus since 2012. Many such Petitioners — to the extent that they remain

⁴ 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*, Petition, Aug. 31, 2009; Amendment #1 And Supplement On Quality Of Service To Petition, May 18, 2010; Amendment #2: Additional Petitioners, Apr. 27, 2011 (collectively referred to as “Petitioners’ Complaint” and “Petitioners”).

⁵ This is the date on which the FCC Order requirements not stayed by the DC Circuit take effect for Jails (as defined in the FCC Order). These requirements already took effect for Prisons (e.g., state departments of corrections) on March 17, 2016. FCC Public Notice, “Wireline Competition Bureau Announces Comment Cycle And Effective Dates For The *Inmate Calling Second Report And Order And Third FNPRM*,” 30 FCC Rcd 14507 (released Dec. 22, 2015).

⁶ Securus will refer to this rate cap hereinafter as the “\$0.10 per-minute usage rate.”

in the case — no longer have active accounts with the Company. Petitioners’ attempts to now “supplement” the record on quality-of-service and billing issues through a summary affidavit by one Petitioner’s staff member, which does not include complainant names or specific dates or details, do not warrant the Department’s expenditure of further resources on these issues.

Because all of the issues should be closed, there is no basis for proceeding with pending discovery requests. They are moot.

REPLY ON BRIEFING NOTICE ISSUES

Securus’s Initial Brief responding to each of the six questions posed in the Briefing Notice explained why the investigation must be closed because the remaining issues were definitively resolved by the FCC Order or not part of the complaint investigation from its inception due to Department action to exclude them, and because the record did not justify further investigation.⁷

The Petitioners have put forth no arguments in their Initial Brief that warrant continuing this complaint investigation. Securus addresses those arguments in connection with each of the Briefing Notice questions.

A. Whether the elimination of the per-call surcharge resolves all concerns regarding the just and reasonableness of the per-call surcharge rate and warrants the Department closing that portion of its Investigation.

The Petitioners and respondents all agree that Section 64.6080 of the FCC’s new rules expressly proscribes “Per-Call” and “Per-Connection” charges on inmate calling service (“ICS”)

⁷ 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*, Initial Brief Of Securus Technologies, Inc., Apr. 25, 2016 (“Securus Initial Brief”).

end-users.⁸ Any state requirements inconsistent with this ban are subject to FCC preemption.⁹ So the FCC Order warrants the Department closing the complaint investigation on this issue. Petitioners have obtained the relief with respect to the per-call charge that they raised in their complaint, with the FCC's assistance.

Indeed, the Massachusetts statute on which the Petitioners' complaint is founded — 159 M.G.L. §14 — provides for challenges to rates then being charged by common carriers under the Department's jurisdiction. Come June 20, 2016, when the proscription on per-call charges takes full effect in Massachusetts, there will be no such "rate" for the Department to assess as "unjust and unreasonable" under Section 14. The Department cannot act on Petitioners' complaint about a rate that no longer exists (i.e., a "theoretical rate").

Notwithstanding that fact, Petitioners argue that because the FCC Order is under appeal in the DC Circuit, the Department should proceed to adjudicate their complaint about the per-call charge and adopt a similar ban based on the FCC Order's rationale.¹⁰ The Petitioners apparently fear that if the Court were to rule against the FCC's regulation of intrastate rates, the per-call charge would automatically spring back to life. Therefore, the Department must act now to prevent that from ever happening, even though Securus (and presumably the other ICS providers) are already taking action to revise their rates in accordance with the FCC per-call charge prohibition.

First, the issue the Department opened for investigation was the "reasonableness of the per-call surcharge and its cap maximum of \$3.00" as part of the Department's incentive regulatory

⁸ 47 C.F.R. §64.6080 ("[No ICS] Provider shall impose a Per-Call or Per-Connection Charge on a Consumer"). Section 64.6000(o) defines a Per-Call or Per-Connection Charge as "a one-time fee charged to a Consumer at call initiation." 47 C.F.R. 64.6000(o).

⁹ FCC Order, ¶ 204.

¹⁰ 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' Brief In Response To Hearing Officer's Notice Of March 18, 2016, Apr. 25, 2016, p. 3 ("Petitioners' Brief").

scheme.¹¹ The investigation was to determine “whether to maintain the per-call surcharge and/or adjust the maximum rate permitted per call.”¹² Thus, any continuing investigation of the Petitioners’ per-call-charge complaint, on the “assumption” that the FCC’s ban might be reversed by the DC Circuit, would require the Department to analyze whether the “legitimate additional costs” associated with the “unique” aspects of ICS still require the \$3.00 surcharge or perhaps some adjusted per-call amount, even though no such surcharge was in place. For the Department to go through that exercise — including all of the related pending discovery issues reflected in Petitioners’ motions to compel and certain respondent replies — for perhaps no reason at all, and in the absence of any such charge being imposed, would be the opposite of a “judicious...exercise of investigatory authority” and would clearly be an “inefficient use of the Department’s...resources.”¹³

Second, to the extent that the FCC Order’s ban of the per-call charge was part of the general effort to stay the decision’s imposition of intrastate rate caps, the Court apparently was unable to find that the challenge was “likely to succeed on the merits” on this score.¹⁴ Although not determinative of the Court’s ultimate decision, the DC Circuit’s refusal to stay the per-call charge ban does not argue for continuing this proceeding on that issue merely because of the pendency of an appeal.

¹¹ 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*, Hearing Officer Interlocutory Ruling, Sept. 23, 2013, p. 26 (“Interlocutory Ruling”).

¹² *Id.*; see Interlocutory Ruling, p. 25 (“revisit the reasonableness of the \$3.00 maximum surcharge”).

¹³ The Department itself follows this standard and there is no “requirement” that it exercise its investigatory authority, particularly under these circumstances. Interlocutory Ruling, pp. 12-13. Further, the Department has dismissed proceedings pending the outcome of FCC proceedings in certain circumstances. *Id.*, p. 13. Finally, the Department has also declined to proceed where there is a risk of inefficiency because the FCC rules may ultimately be inconsistent with the Department’s decision. 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*, Hearing Officer Ruling On Motions For Abeyance, Dec. 11, 2013, p. 4.

¹⁴ See *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008).

Third, to the extent that Massachusetts tariffs are changed to reflect the removal of the per-call charge (as required by the FCC Order), any move to reintroduce such a charge would have to be approved by the Department per 159 M.G.L. §20. Securus notes that on May 19, the Company filed with the Department a proposed change to its Massachusetts tariff to comply with the requirements of the FCC Order, including the removal of the existing per-call charge.

Based on all of the foregoing, Securus reiterates that the Department should close the complaint investigation of the per-call charge issue.¹⁵

B. Whether the elimination of the per-call surcharges and the establishment of interim and final rate caps for ICS service necessitates that the Department investigate whether the \$0.10 per-minute rate cap for all in-state ICS in Massachusetts remains just and reasonable.

The \$0.10 per-minute usage rate is not part of this complaint investigation. The Department twice rejected Petitioners' efforts to include it.¹⁶ Nevertheless, the Petitioners refer to this issue as being "re-opened."¹⁷ Neither Securus nor Global Tel*Link — by mentioning it in a status conference call with the Hearing Officer — requested that the Department reverse its earlier decisions and make the \$0.10 per-minute usage rate again part of Petitioners' complaint herein.

¹⁵ Inmate Calling Solutions, LLC ("ICSolutions") suggests that this proceeding should be suspended pending the outcome of the FCC proceeding. 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*, Inmate Calling Solutions, LLC Initial Brief in Response to Hearing Officer's Notice Dated March 18, 2016, Apr. 25, 2016, p. 4 ("ICSolutions Brief"). As Securus explains, the issues are resolved and the investigation should be closed.

¹⁶ Interlocutory Ruling, pp. 3, 33. In February of 2014, the Department's Commissioner rejected Petitioners' appeal of the dismissal of the \$0.10 per-minute usage rate component. 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 Appeal Of Hearing Officer's Ruling, Feb. 26, 2014. The Petitioners did not further appeal that ruling.

¹⁷ Petitioners' Brief, p. 2

Nor has the Hearing Officer made a finding *sua sponte* that the Department should or will do so.¹⁸ Thus, the \$0.10 per-minute usage rate issue is not a part of this investigation and therefore there is no such issue to close.

Does the Department need to address the continued just and reasonableness of the \$0.10 per-minute usage rate? Yes, it does. The entire elimination of the \$3.00 per-call charge will constitute a 67% reduction of the capped rate for a 15-minute intrastate ICS call. This Department-approved charge was to cover the “legitimate additional costs” that were “unique” to ICS.¹⁹ The Department conceded that these costs were not recovered by the \$0.10 per-minute usage rate.²⁰ Since a per-call charge is no longer permitted under the FCC Order, the Department, in an appropriate proceeding, must adjust the \$0.10 per-minute usage rate to address that issue.²¹

C. Whether the FCC’s establishment of specific taxes and ancillary service charges with price caps sufficiently resolved all concerns regarding the service and other fees contained in ICS providers’ tariffs and warrants the Department closing that portion of its Investigation.

The FCC Order approved a limited set of ancillary fees and charges. The Commission’s list included credit card processing fees — now limited to \$3.00 for automated credit card payment, debit card payment, and bill processing fees, including fees for payments made by interactive voice

¹⁸ ICSolutions asserts that the Hearing Officer “revived the issue” in the Briefing Notice. ICSolutions Brief, p. 15. Again, the Hearing Officer made no reversal of the Department’s previous decisions that the issue was not to be part of the Petitioners’ complaint proceeding.

¹⁹ Interlocutory Ruling, pp. 2-3.

²⁰ *Id.*, pp. 19-20.

²¹ ICSolutions suggested a rulemaking proceeding. ICSolutions Brief, pp. 14-15. Global Tel*Link suggested a rulemaking or a waiver request. 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*, Brief Of Global Tel*Link Corporation, Apr. 25, 2016, pp. 7-8 (“GTel Brief”). Securus has filed a tariff revision. Whatever the appropriate vehicle, the Department must afford, effective no later than June 20, 2016, an interim temporary increase in the \$0.10 per-minute usage rate. Absent such interim relief, the Department will be suborning confiscatory rates “insufficient to yield reasonable compensation for the service rendered” contrary to law. 159 M.G.L. §14; *see New England Tel. & Tel. Co. v. Dept. of Pub. Utils.*, 97 N.E.2d 509, 510, 519 (Mass. 1951). ICS providers are entitled to earn reasonable compensation under the Department’s incentive regulatory scheme. Interlocutory Ruling, p. 23.

response (“IVR”), web or kiosk.²² Other than the ancillary fees specifically listed in the FCC rules, “*all other ancillary service charges...are prohibited.*”²³ And the FCC will revisit this list in two years “to determine if adjustments are appropriate.”²⁴

Thus, the FCC Order has comprehensively addressed the issue of ICS provider ancillary fees and charges, including those — such as credit card processing fees — that were the subject of the Petitioners’ complaints. Petitioners do not claim that the results of the FCC Order leave an “unjust and unreasonable” set of ancillary fees and charges still in effect in Massachusetts.²⁵

Despite specific ICS provider attempts to do so, with one exception, the DC Circuit refused to stay the FCC Order’s decisions on ancillary fees and charges.²⁶ Thus, by implication, the Court concluded that the appellants had not shown that they were “likely to succeed on the merits” of this element of their challenge to the FCC Order. The eliminations and restrictions take effect for Massachusetts in its entirety on June 20, 2016 and Massachusetts consumers will benefit. Again, at that point the ancillary rates and fees that the Petitioners complained of will no longer be “rates” in effect in Massachusetts and subject to review under 159 M.G.L. §14.

²² 47 C.F.R. §§64.6020, 64.6000(a)(1).

²³ FCC Order, ¶ 161. “Ancillary Service Charges” are “any charge Consumers may be assess[ed] for the use of [ICS] that are not included in the per-minute charges assessed for individual calls.” 47 C.F.R. §64.6000(a). Mandatory Taxes and Fees (i.e., those which ICS providers are required to collect directly from Consumers, and remit to federal, state or local governments) are also permitted. *Id.*, §64.6000(n).

²⁴ FCC Order, ¶ 162.

²⁵ *See* Petitioners’ Brief, p. 4.

²⁶ The sole exception was certain specialized billing options for single-call rate services. 47 C.F.R. §64.6020(b)(2).

But Petitioners suggest that, because of the pending DC Circuit appeal, Massachusetts consumers “cannot rely on the FCC Order.”²⁷ It might be overturned, they claim. While the denial of the requested stay is not determinative, the Court has sent a message on this issue.

Moreover, if the ICS providers were to seek to reinstate or create new fees, any rate changes are subject to prior Department approval.²⁸ Thus, there is no reason to continue this investigation and further expend Department resources based merely on the Petitioners’ fear that the FCC Order might ultimately be reversed.

There is no basis for continuing the complaint investigation on this issue. The FCC Order fully warrants that this portion of the investigation be closed.

D. Whether the FCC’s Order resolves concerns about dropped calls and other service quality issues and warrants the Department closing all or part of that portion of its Investigation.

As noted by Global Tel*Link, the Department has a preferred procedure for resolving quality-of-service complaints — go first to the carrier, and then if the matter cannot be addressed appropriately, bring the issue to the Department.²⁹ But Petitioners prefer to ignore this preference, which is aimed at actually resolving the basis of the complaint while respecting Departmental resources. Instead, of late the preferred complaint recipient is apparently the Prisoner Legal Services of Massachusetts paralegal, Mr. Alphonse Kamanzi, who of course has no facility to provide an

²⁷ Petitioners’ Brief, p. 4.

²⁸ 159 M.G.L. §19. Again, Securus on May 19 filed a tariff revision to implement the FCC Order requirements.

²⁹ GTel Brief, p. 11, n.51 and n.52; *see also* 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*, Response Of Global Tel*Link Corporation To Petitioners’ Emergency Motion To Require Compliance With Massachusetts Inmate Calling Rate Cap, Apr. 7, 2016, p. 6.

answer, suggest a solution, pay a credit for a dropped call, or to resolve a complaint in any manner whatsoever.³⁰

As Securus's Initial Brief reported, since 2012 the Company has no record of receiving a single complaint about dropped call or line quality issues from any of the Petitioners who originally provided affidavits back in 2010 mentioning Securus. Nor were complaints received from the individuals who complained about Securus at the July 2012 Public Hearing. Indeed, only eight (8) of the individuals who originally filed affidavits involving Securus and remain in the case even have active accounts with Securus.³¹ Those with accounts that remain active have made no complaints to Securus since 2012.³²

Securus has continued to expend substantial capital and resources to ensure that the Company continues to enhance user experience and eliminate problems that might result in customer complaints.³³ For example, Securus spends millions annually to upgrade its network and Secure Call Platform (SCP) system to include new features and to increase the system's capacity to handle higher call volumes and "redundancy" of the network facilities to ensure system reliability. As a result of these upgrades, since 2012 Securus's systems have had over 99.9% "up time;" in other words, virtually no service outages. According to Securus Network Operations, Securus submits that this reliability statistic for its SCP is better than most LECs, CLECs or IXCs.

To the extent Securus's customers do experience a problem, the Company's Customer Relationship Management service has been implemented to manage and analyze customer

³⁰ Petitioners' Brief, Exhibit 2.

³¹ Securus Initial Brief, pp. 9-10.

³² *Id.*

³³ Securus has previously outlined its customer services practices and addressed the matter of dropped calls and line quality issues at length. Securus Initial Brief, p. 9, n.33 and materials cited therein.

interactions and data throughout the customer lifecycle with the goal of continually improving customer experience. In fact, to keep up with response to customer inquiries, in the past two years Securus has added 100 new customer relationship agents to its call center to service customers more efficiently and timely, meeting its goal of reducing the average speed of answer by a live agent to one to two minutes. Also, customers can now “chat” with Securus any time — 24 hours a day, 7 days a week, 365 days a year — with a current average speed of answer of 34 seconds to get to a live “chat” agent. In addition to direct access to Securus customer relationship agents, Securus has upgraded its IVR System which allows customers to manage their accounts and set up accounts with multiple points of entry, again, 24 hours a day, 7 days a week, 365 days a year. There are currently 2.5 million customers using this system successfully on a monthly basis.³⁴

Still, Mr. Kamanzi’s affidavit asserts that since March 1, 2016 he has received complaints from 18 “petitioners” regarding various quality-of-service issues, including line quality and dropped calls. Mr. Kamanzi does not identify who the “petitioners” are, whether they are among those who remain in the case, or the circumstances and nature of the alleged issues. There are no affidavits from these anonymous “petitioners”; merely the summarized assertions of Mr. Kamanzi. There is no indication that any of these complaints were brought to the ICS providers, which, again, is inconsistent with the Department’s preference for resolving complaints.

Sparseness of specificity and details has been a symptom of many of the Petitioners’ quality-of-service complaints in this investigation.³⁵ With minor exception,³⁶ the record reflects that there

³⁴ Securus has been accredited and received an A+ rating from the Better Business Bureau. *See* PRNewswire, “Securus Receives Accreditation from Better Business Bureau” (May 12, 2016), *available at*, <http://www.prnewswire.com/news-releases/securus-receives-accreditation-from-better-business-bureau-300267674.html>.

³⁵ Many Petitioners’ form affidavits simply said “the quality of ... calls is poor.” *See e.g.*, Affidavit of Thomas J. Gately, Mar. 11, 2011, attached to Amendment #2, Petitioners’ Complaint.

³⁶ *See* materials cited in note 32, *supra*.

has been no apparent effort to contact Securus – the entity that is actually set up to listen, respond and under certain circumstances, pay a credit.

Many of the Petitioners' complaints about dropped calls were tied to the requirement to again pay a connection charge when resuming the call. As Global Tel*Link notes, with the ban on such per-call charges, this "cost" of a dropped call disappears.³⁷ Massachusetts customers will only pay for the minutes that they use.

Today, Securus has determined that 80-85% of inmate calls are completed to the called party's wireless phone. With the steadily increasing number of inmate calls being made to wireless numbers, relying on wireless networks that ICS providers do not maintain or control, dropped wireless calls cannot be the responsibility of the ICS provider.³⁸ Indeed, Securus's customers are explicitly told upfront that Securus does not guarantee the reliability of connections made using wireless networks and will not provide credits for dropped calls in those circumstances.³⁹

The security requirements surrounding correctional facilities and Securus's contracts with those facilities require prevention against call forwarding or three-way calling. These are policies that, as GTel notes, are completely within the discretion of Massachusetts correctional facility administrators.⁴⁰ Indeed, the Hearing Officer recognized that the "Department of Corrections... has broad statutory authority to establish and maintain the prison facilities in Massachusetts" and

³⁷ GTel Brief, p. 10.

³⁸ Of course, we do not know how many of the complaints fielded by Mr. Kamanzi regarding dropped calls might have related to calls made to wireless numbers.

³⁹ See Securus Friends & Family Telephone Service Guide, available at, <https://securustech.net/documents/104052/127607/Telephone+Guide+-+English/18b4f768-1f42-405a-9468-ce9d351f51da?version=1.0>.

⁴⁰ GTel Brief, p. 10. Securus customers are warned about avoiding any form of 3-way calling. See *id.*

“[s]heriffs have broad control over the maintenance of county jails and houses of correction.”⁴¹ Decisions by facility administrators regarding security, including the need to prevent three-way and conference calling, are entitled to deference and the regulations to do so are considered presumptively valid.⁴²

Securus reiterates that further investigation into the quality-of-service issues relating to dropped calls and line quality should be closed. To the extent these problems arise, they would be more susceptible of actual solution if Petitioners, and other customers, followed prescribed Department procedures and alerted the ICS providers to any issues. That would be a more efficient way to resolve any problems than further investigation of long-ago complaints for which scant details have been forthcoming.

E. Whether the FCC’s Order resolves concerns about the adequacy of billing details and warrants the Department closing that portion of its Investigation.

As the Briefing Notice question conveys, the Department-approved issue in this complaint proceeding was the “adequacy of billing details.” Specifically, the issue was added based on “Petitioners’ complaints regarding the difficulty in receiving billing details from GTL and Securus.”⁴³ These were the alleged “billing practices” that were approved for investigation. Petitioners cannot now seek to justify continuing, and in effect amending, their complaint through

⁴¹ Interlocutory Ruling, p. 31.

⁴² *Id.*, citing *Brackett v. Civil Service Commission*, 850 N.E.2d 533, 552 (2006). Security decisions are even more important in light of contraband cellphones that can be smuggled into the facilities. *See* FCC Order, 30 FCC at 12969-12970 (Statement of Commissioner Ajit Pai).

⁴³ Interlocutory Ruling, p. 31.

Mr. Kamanzi's April 25, 2016 affidavit reporting other summarized allegations generally related to billing.⁴⁴

Only one initial Petitioner, Sonia Booker, complained in her affidavit about an inability to obtain "billing details" from Securus (i.e., that she could not obtain a printed bill). Despite speaking with a Securus customer service representative four (4) times between April 2008 and March 2010, however, Securus's records do not indicate that Ms. Booker ever requested a copy of her account balance information.⁴⁵ Ms. Booker no longer has an active account with Securus and the Company's records going back to 2012 reflect no complaints from her.⁴⁶

As previously noted, Securus offers its customers several ways to obtain billing details. They can be obtained online through Securus's web site. Customers can receive account balance information through Securus's IVR System, 24 hours a day, 7 days a week, 365 days a year. Details can be obtained by contacting one of Securus's many customer service representatives on a toll-free basis. If requested, Securus will provide a written account statement.⁴⁷ For customers who qualify for direct billing, the call details are reflected on the monthly bill the customer receives directly from Securus. Indeed, some examples of such paper bills are found in portions of certain Petitioner discovery responses. Finally, for customers who chose to accept calls billed to their wireless phones,

⁴⁴ Mr. Kamanzi avers that 12 unidentified "petitioners" complained to him since March 1, 2016 regarding "overcharging and problems trying to secure refunds." He does not report on any claims of the inability to obtain billing details. Indeed, if these claims did relate to such non-billing-detail issues, the "petitioners" must have known what the charges were that they deemed excessive and what the balance of their account was to be refunded. Further, as with the "petitioners" who alleged quality-of-service issues, Mr. Kamanzi fails to identify who the "petitioners" are, whether they are among those who remain in the case and what are the circumstances and nature of the alleged problems. There are no affidavits from these anonymous "petitioners," merely the summarized assertions of Mr. Kamanzi. There is no indication that any of these complaints were brought to the ICS providers.

⁴⁵ 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*, Response of Securus Technologies, Inc., Jan. 20, 2012, Exhibit 8, p. 1.

⁴⁶ Further, there are no records of complaints by other Petitioners and those who wrote letters introduced at the Public Hearing. Securus Initial Brief, pp. 9-10.

⁴⁷ The FCC Order does not require a paper bill. ICS providers may charge up to \$2.00 for providing one. 47 C.F.R. §64.6020(a)(4).

the charges are reflected on their wireless phone billing statement or, if they choose to pay for the call by credit card, the amount charged to the card is reflected on their credit card bill.

Securus noted in its Initial Brief that existing FCC requirements for Truth-In-Billing, which apply to Securus, require specific billing details.⁴⁸ This is on top of FCC-required rate announcements.⁴⁹ Further, the FCC Order set forth additional disclosure and information requirements, none of which are subject to the DC Circuit appeal.⁵⁰ Indeed, those FCC Order requirements are derivative of a proposal that Securus submitted to the FCC along with other ICS providers.⁵¹

Petitioners have multiple and more than adequate means to obtain billing details from Securus, including written account statements. The Department need not expend resources further investigating this issue, but should close this portion of the investigation as well.

F. **Whether any changes to the scope of the proceeding would moot any of the pending discovery requests.**

All of the issues raised and discussed in Sections II.A-E above should be closed or are not part of this complaint proceeding. Therefore, as explained in detail in Securus's Initial Brief, all of the pending discovery requests relating to those issues are moot. In addition, requests relating to issues outside the scope of this proceeding are also moot.

⁴⁸ Securus Initial Brief, p. 11. Further, GTel notes that the Department itself already has rules relating to residential customers that include the type of information required on bills and related matters. GTel Brief, pp. 14-15.

⁴⁹ 47 C.F.R. §64.710.

⁵⁰ FCC Order, ¶¶ 278-288.

⁵¹ See FCC Order, ¶ 279 (discussion of Joint Provider Proposal on disclosures).

CONCLUSION

For the foregoing reasons, the DTC should close this proceeding. The issues identified in the Briefing Notice are moot as a result of the FCC Order or were never part of this complaint proceeding. Furthermore, there is no further justification for expending resources on the quality of service and billing detail issues.

Respectfully submitted,

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Dated: May 23, 2016

CERTIFICATE OF SERVICE

I, Koyulyn K. Miller, hereby certify that on this 23rd day of May, 2016 I did serve, by Federal Express or first class mail, postage prepaid or by electronic mail a copy of the foregoing "Reply Brief of Securus Technologies, Inc." on the parties listed on the Service List below issued by the Department:

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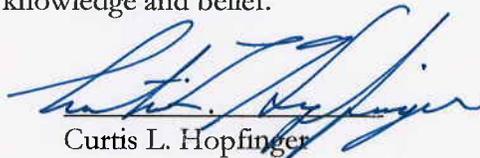

Koyulyn K. Miller

DECLARATION

1. I, Curtis L. Hopfinger, am the Director – Regulatory & Government Affairs of Securus Technologies, Inc. (“Securus” or “Company”). I have occupied that position since August of 2005. As such I am familiar with the Company’s operations and the regulatory requirements applicable to those operations in the states in which Securus operates, including the Commonwealth of Massachusetts.

2. I have participated in the Department of Telecommunications and Cable proceeding docketed as D.T.C. 11-16 (“Proceeding”) since its inception in November of 2011. Therefore I am thoroughly familiar with the issues involved in the Proceeding.

3. I have reviewed the foregoing “Reply Brief of Securus Technologies, Inc.” in the Proceeding (“Reply Brief”). The Reply Brief was prepared pursuant to my direction, supervision and control. I hereby declare under penalty of perjury that the factual representations made in the Reply Brief concerning Securus and its operations, including its operations in the Commonwealth of Massachusetts and associated costs and customer records thereof, and the inmate calling service industry in general are true and correct to the best of my knowledge and belief.


Curtis L. Hopfinger

Dated: May 23, 2016