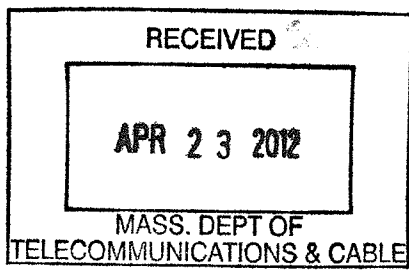


11-16

PRISONERS' LEGAL SERVICES*

10 Winthrop Square, 3rd Floor
Boston, MA 02110
617-482-2773; WATS 800-882-1413
FAX 617-451-6383
State Prisoner Speed Dial *9004#
County Collect Calls 617-482-4124
www.mcls.net



April 20, 2012

Via electronic service and surface mail

Catrice C. Williams, Secretary
Department of Telecommunications and Cable
1000, Washington Street, Suite 820
Boston, MA 02118-6500

Re: D.T.C. 11-16

Dear Ms. Williams:

Enclosed for filing please find an original and three copies of Petitioners' Motion for Leave to file Surreply and Surreply. Please feel free to contact me with any questions or concerns at 617-482-2773 x 106.

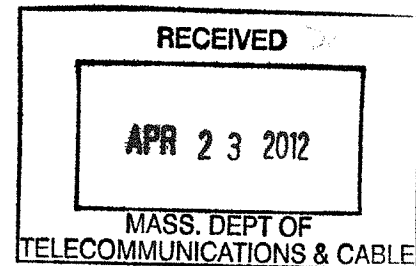
Sincerely,

A handwritten signature in cursive script, appearing to read "Bonita Tenneriello".

Bonita Tenneriello
Staff Attorney

cc: Parties of Record

* Formerly known as Massachusetts Correctional Legal Services



**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**

MOTION FOR LEAVE TO FILE SURREPLY

The Respondents have sought leave to reply to Petitioners' Opposition to Dismissal and have filed proposed replies. The Petitioners now seek leave to file a surreply, with proposed surreply attached, for the following reasons:

1. Respondent Securus attacks the adequacy of the affidavit of Douglas A. Dawson, originally submitted in the *Wright* proceeding before the Federal Communications Commission and attached to the Petition in this case. Securus alleges that the data Dawson cited is outdated and that its costs of providing prison telephone service have increased more than 16 percent since 2008.
2. Respondent GTL also attacks the adequacy of the data submitted by Petitioners.
3. Mr. Dawson has been retained as an expert for Petitioners in this case. He has prepared an affidavit outlining his extensive credentials and providing current information on the cost of providing prison telephone service. The Affidavit

demonstrates that the trends cited in the *Wright* affidavit continue, and that the rates Petitioners charge in Massachusetts are unreasonable in light of radically decreasing industry costs and in comparison to rates charged elsewhere.

4. Granting this motion will not prejudice any party. The affidavit refutes the Respondents' own attacks on the sufficiency of Dawson's data. Consideration of it will, as the Respondents stated, "ensure the Department has a more complete and detailed record regarding the law and facts applicable to this case and will further assist the Department in ruling in this matter."

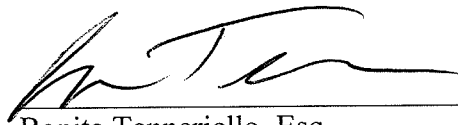
Respondent GTL's Motion for Leave to File Response at 2, citing DPU 94-50, *New England Tel. & Tel. Co.* (Nov. 7, 1994).

5. To the extent that the Department considers the Respondents' proposed replies, in the interest of fairness, it should also consider this surreply.

Therefore, the Petitioners respectfully request that the Department accept the attached surreply, with affidavit of Douglas A. Dawson.

Date: *April 20, 2012*

Respectfully submitted:



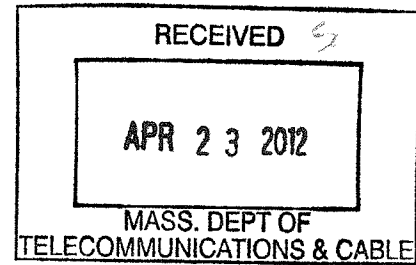
Bonita Tenneriello, Esq.
Elizabeth Matos, Esq.
James Pingeon, Esq.
10 Winthrop Square, 3rd Floor
Boston, Massachusetts 02110
(617) 482-2773 (telephone)
(617) 451-6383 (facsimile)
btenneriello@plsma.org
ematos@plsma.org
jpingeon@plsma.org

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail (by hand)

on *4/20/12*

sig. 



**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**

SURREPLY OF PETITIONERS

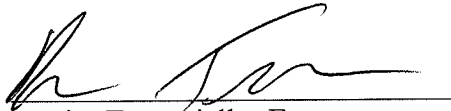
Respondent Securus has attacked the adequacy of the affidavit of Douglas A. Dawson, originally submitted in the *Wright* proceeding before the Federal Communications Commission and attached to the Petition in this case. Securus alleges that the data in Dawson's *Wright* affidavit is outdated, and claims that its costs of providing prison telephone service have increased more than 16 percent since 2008. Respondent GTL also attacks the adequacy of the data submitted by Petitioners.

Mr. Dawson has been retained as an expert for Petitioners in this case. He has prepared an affidavit outlining his extensive credentials and providing current information on the cost of providing prison telephone service, attached as Exhibit 1 to this surreply. The affidavit demonstrates that the trends cited in the *Wright* affidavit continue. Contrary to the unsupported assertions of Securus, Dawson's affidavit demonstrates that costs associated with prison telephone service have continued to decline sharply. Dawson's affidavit also demonstrates that other jurisdictions, facing comparable costs of service, have far lower rates than Massachusetts.

Therefore, the Respondents' argument that the Petitioners have failed to present sufficient evidence that current telephone rates are unreasonable should be rejected.

Date: April 20, 2012

Respectfully submitted:



Bonita Tenneriello, Esq.
Elizabeth Matos, Esq.
James Pingeon, Esq.
10 Winthrop Square, 3rd Floor
Boston, Massachusetts 02110
(617) 482-2773 (telephone)
(617) 451-6383 (facsimile)
btenneriello@plsma.org
ematos@plsma.org
jpingeon@plsma.org

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail (by hand)

on 4/20/12

sig. 

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

No. D.T.C 11-16

**PETITION OF REIPIENTS OF COLLECT CALLS FROM
PRISONERS AT CORRECTIOANL INSTITUTIONS IN MASSACHUSETTS
SEEKING RELIEF FROM
THE UNUST AND UNREASONABLE COST OF SUCH CALLS**

AFFIDAVIT OF DOUGLAS A. DAWSON

I. INTRODUCTION

1. My name is Douglas A. Dawson, and I am President of CCG Consulting, Inc. ("CCG"), located at 7712 Stanmore Drive, Beltsville, Maryland, 20705. CCG is a general telephone consulting firm. CCG works for over 450 communications companies, which includes competitive local exchange companies (CLECs), local telephone companies, cable TV providers, electric companies, wireless providers, wireless companies, municipalities and governments and internet service providers.

2. I have specific experience that is relevant to the issues in this case. This case involves the cost of providing local and long distance calling for jails and prisons. I have assisted in the launch of over 50 long distance companies in my career. In that role, I have done just about everything possible associated with creating or running long distance companies. I am familiar with all regulatory aspects of long distance service including the development of prices and costs and the writing and filing of tariffs. I have helped numerous companies select the hardware for providing long distance service. I have negotiated numerous times with wholesale long distance providers such as Sprint, AT&T, Level3 and CenturyLink. I understand the details about the underlying long

distance networks and issues associated with using them. I have had extensive experience with and, consequently, have an in-depth understanding of the capabilities and configurations of network switching systems, which lie at the heart of what all telephone systems can do. I also have helped numerous companies with the provisioning of ancillary long distance products such as calling cards, operator services, pre-paid cards, international toll, and Voice Over IP (VoIP) long distance.

3. In this affidavit, I have been asked to support the original petitioners in the case who claim that the rates charged for prison calling in Massachusetts are unreasonable. Recently Securus and GTL made arguments in their responsive pleadings asking for the case to be dismissed and said that the petitioners provided insufficient evidence that the rates charged in the state are too high. I believe that the DTC should hear this case. My primary argument is that there are other states with lower long distance rates for prisons, and the fact that prison providers accept contracts in those other states is sufficient evidence that the rates in Massachusetts are higher than necessary. Further, Respondents make claims that the costs of providing prison calling have increased since the original petition for this case was filed in 2009. I will argue below that the prison provider's costs to provide long distance services have dropped precipitously in the last few years. The petitioners have retained me as an expert witness and the original plan was for me to file extensive testimony once this docket moved forward. For now, since time is short, my goal is to explain briefly why the claims made by Securus and GTL are without merit and why the DTC should hear this case.

4. For the reasons set forth in this affidavit and based on my extensive background in the telecommunications field, I conclude that the rates charged for calling in Massachusetts are excessive. I further contend that the costs of providing prison calling has dropped precipitously over the last few years, rather than increased as claimed by the petitioners. In brief, in this affidavit, I will a) discuss my background and qualifications in the field of telecommunications, b) briefly discuss how the rates in Massachusetts are higher than rates in many other places, and c) discuss how costs have dropped dramatically for prison telephone providers in the last few years.

II. Background

5. I received a Bachelor of Science in Accounting from the University of Maryland in 1977. In addition, I received a Masters degree in Mathematics from the University of California at Berkeley in 1985.

6. I began my telephone career in 1975 as a test technician building telephone switches for Litton Industries in College Park, Maryland. In this position I did system integration testing and learned in detail how early digital switches operate.

7. My next telephone job began in 1978 with John Staurulakis, Inc. ("JSI"). JSI is a telephone consulting firm that specializes in consulting for independent telephone companies (those smaller telephone companies that were not part of the Bell System). In this job, I worked on separations cost of service studies for Independent Telephone Companies. In this role, I had my first detailed exposure to developing the costs of providing telephone service. Additionally, I performed numerous traffic studies for switches. These studies were used to determine the patterns of customer usage for switches, and were used to determine costs, but also were used to determine the most efficient way to configure the switch and the network.

8. Next, in 1981 I became a Staff Manager of Industry Relations at Southwestern Bell Telephone Company in St. Louis, Missouri. Southwestern Bell was a huge regional telephone company that is now part of AT&T. My functions there included tracking issues that impacted Bell's relationships with the independent telephone industry, calculating and negotiating various interconnection and settlement rates between companies for local calling and other network arrangements, and overseeing the review of an independent telephone company's traffic and toll cost studies. In performing the traffic studies I had hands on experience working with measuring usage on a number of different brands of switches. I also served for a period of time as a member of the rate case team for the Missouri operations. In working on rate cases, I further developed my knowledge of calculating and developing telephone costs.

9. In my next position, beginning in 1984, I gained operating telephone company experience at CP National in Concord, California. CP National was a holding company that owned, among other things, 13 telephone companies. I had several jobs with increasing responsibility and ended as Director of Revenues. In that capacity, I oversaw a large group that performed telephone accounting, separations and traffic engineering studies for a seven-state area. My group also monitored earnings, developed access and local rates, maintained tariffs, filed rate cases, and monitored and commented in state and federal regulatory proceedings. In this role, I was directly responsible for setting rates and for defending those rates in front of various regulatory authorities. Thus, I testified in a number of rate-making cases and regulatory proceedings in California, Texas, Nevada, Oregon and Arizona and New Mexico. Part of my responsibility at CP National included calculating costs and setting rates for four separate operator centers where the company maintained telephone operators for completing collect and other types of operator-assisted calls. While at CP National, I also became responsible for earnings monitoring and rate case development for electric, gas and water properties.

10. In my next position, in 1991 I again joined John Staurulakis, Inc. in various capacities. My final position there was as Director of Special Projects. In that capacity, I oversaw all projects and clients who were not historically part of JSI's core cost separations business. Some of the projects I worked on included assisting clients in launching long distance companies and to become internet service providers; studying and implementing traditional and measured local calling plans; developing optional toll and local calling plans; performing embedded Total Element Long-Run Incremental Cost ("TELRIC") and incremental cost studies for products and services; assisting in local rate case preparation and defense; and conducting cross-subsidy studies determining the embedded overlap between telephone services. In this role, I gained in-depth experience in long distance rates rate setting and the regulatory process. I also became thoroughly

familiar with the underlying costs of running a long distance company, and providing telephone service.

11. In 1997, I became a founder and owner of Competitive Communications group, LLC. The company has subsequently been reformed as CCG Consulting, LLC. My title at CCG is President and I am directly responsible for all of the consulting work performed by our company. As a firm we offer the following telephone consulting products and services that are needed by companies that are launching new ventures or entering new markets, all under my direct control and supervision:

- Engineering services, including:
 - Analysis of telephone hardware for switching and networks
 - Detailed network design and development
 - Developing switching specifications and provisioning new switches into service
 - Developing RFPs and analyzing vendors;
- Development of financial business plans;
- Market segmentation studies to understand markets and customers;
- Competitive research including rates and services of other providers;
- Strategic analysis and planning;
- Marketing plans;
- Regulatory work including certification of companies to provider service, development and filing of tariffs and regulatory compliance to make certain companies are meeting regulatory requirements;
- Implementation assistance for start-up companies including:
 - Negotiating interconnection agreements with other carriers
 - Negotiating network implementation and collocation of equipment with other carriers;
 - Choosing vendors for billing, back office, operator services and other external requirements
 - Ordering trunks (telephone lines that go between different networks)
 - Detailed hands-on project management;
 - Assistance in developing and implementing accounting systems;
 - Development of rates;
 - Calculation of costs.

III. RATE ISSUES

15. The purpose of this section is to highlight a few other states where rates are significantly lower than the rates charged today in Massachusetts, which is sufficient proof that the rates in Massachusetts are too high. If and when this case proceeds to an evidentiary hearing, I will provide a more detailed and comprehensive analysis of rates in other states as they compare to Massachusetts.

16. One thing that anybody who looks at prison calling rates will instantly see is how widely the rates vary. This is often the case even within the same prison or jail where the rates for state and interstate rates might be quite different, although the costs are nearly identical. Generally it seems like prison telephone providers will charge as much for calls as they can get away with in each jurisdiction. As can be seen by a few of the rates I list below, there is a big discrepancy even within Massachusetts between the rates charged by state prisons and those charged by County facilities.

17. Following are some examples of the rates charged in Massachusetts today. The first rates below are the rates used by GTL for the Massachusetts Department of Corrections. In this document I will refer to those as the **DOC rates**.

The DOC rates include a 35% Commission.

Debit Calls

Local	\$0.65 Surcharge plus \$0.075 per minute
State IntraLata	\$0.65 Surcharge plus \$0.075 per minute
State InterLata	\$0.65 Surcharge plus \$0.075 per minute
Interstate	\$0.65 Surcharge plus \$0.075 per minute

Collect Calls

Local	\$0.86 Surcharge plus \$0.10 per minute
State IntraLata	\$0.86 Surcharge plus \$0.10 per minute
State InterLata	\$0.86 Surcharge plus \$0.10 per minute
Interstate	\$0.86 Surcharge plus \$0.10 per minute

18. In addition to the DOC rates, there are contracts for different rates among many County and city-owned correctional facilities. Following are some examples of these other rates:

Rates for the Plymouth County Sheriff's Department (GTL)

The Plymouth rates include a 60% commission plus a monthly fee of \$2.89 for anybody who receives a bill.

All Calls

Local	\$3.10 for the 1 st minute and then \$0.10 per minute
State IntraLata	\$3.10 for the 1 st minute and then \$0.10 per minute
State InterLata	\$2.60 for the 1 st minute and then \$0.10 per minute
Interstate	\$3.95 for the 1 st minute and then \$0.89 per minute

Suffolk County Sheriff's Department (Securus)

The Suffolk rates include a 50% commission.

Debit Calls

Local	\$0.50 per minute
State IntraLata	\$0.50 per minute
State InterLata	\$0.50 per minute
Interstate	\$0.50 per minute

Collect Calls

Local	\$2.85 Surcharge plus \$0.10 per minute
State IntraLata	\$2.85 Surcharge plus \$0.10 per minute
State InterLata	\$3.00 Surcharge plus \$0.10 per minute
Interstate	\$3.00 Surcharge plus \$0.89 per minute

Hampden County Sheriff's Department (Securus)

The Hampden rates include a 52% commission plus payment of \$3,500.

All Calls

Local	\$2.50 Surcharge plus \$0.50 per call
State IntraLata	\$2.50 Surcharge plus \$0.10 per minute
State InterLata	\$2.50 Surcharge plus \$0.10 per minute
Interstate	\$3.95 Surcharge + \$0.89 the 1 st minute then \$0.10 per minute

Barnstable County Sheriff's Department (Securus)

The Barnstable rates include a 52% commission

All Calls

Local		\$3.00 Surcharge plus \$0.10 per minute
Interstate		\$3.95 Surcharge plus \$0.89 per minute
State IntraLata & InterLata		\$3.00 Surcharge plus the following per minute rates:
Day	0 – 10 Miles	\$0.10 for 1 st minute then \$0.06 per minute
	11 – 14 Miles	\$0.10 for 1 st minute then \$0.09 per minute
	15+ Miles	\$0.10 for 1 st minute then \$0.10 per minute
Evening	0 – 10 Miles	\$0.074 for 1 st minute then \$0.055 per minute
	11 – 14 Miles	\$0.10 for 1 st minute then \$0.055 per minute
	15+ Miles	\$0.10 for 1 st minute then \$0.061 per minute
Night/Wknd	0 – 10 Miles	\$0.046 for 1 st minute then \$0.036 per minute
	11 – 14 Miles	\$0.054 for 1 st minute then \$0.036 per minute
	15+ Miles	\$0.078 for 1 st minute then \$0.036 per minute

19. Following are now some examples of state rates that are priced far lower than some of the rates being used in Massachusetts particularly by the Counties. These are examples of the collect calling rates from some other state DOC contracts.

New York (Unisys/VAC)

All calls \$0.048 per minute with no surcharge

Michigan (Embarq)

Local \$0.12 per minute with no surcharge
State IntraLata \$0.12 per minute with no surcharge
State InterLata \$0.12 per minute with no surcharge
Interstate \$0.15 per minute with no surcharge

Rhode Island (GTL)

Local \$0.70 per call with no surcharge
State IntraLata \$0.70 per call with no surcharge
State InterLata \$0.70 per call with no surcharge
Interstate \$1.30 Surcharge plus \$0.30 per minute

Nebraska (PCS)

Local \$0.70 per call with no surcharge

State IntraLata	\$0.70 Surcharge plus \$0.05 per minute
State InterLata	\$0.70 Surcharge plus \$0.05 per minute
Interstate	\$0.70 Surcharge plus \$0.05 per minute

20. The fact that there are states that have lower rates than Massachusetts is reason enough for DTC to investigate the rates charged in Massachusetts prisons and jails, especially given the lack of significant discrepancy in the cost of providing these services across states. Further, the fact that there is a big disparity between the rates charged by the State and Counties is yet another reason why this docket should move forward.

IV. THE FALLING COSTS OF PRISON CALLING

21. Like the rest of the telephone industry, the methods and costs of providing prison long distance have dropped precipitously over the last few years. There are several technological changes in the industry that have enabled the prison providers to drastically streamline their operations and greatly increase profit margins. These changes relate to the ability to process calls from centralized locations, which is often referred to as ‘using the cloud’. There is also a dramatic change ongoing in the cost of transport and bandwidth that have made it cheaper to connect to a jail facility. Finally, the large providers like Securus and GTL have benefitted greatly by centralization and economies of scale.

22. Of these changes, the most important one is the ability to process and switch prison calls at locations outside the prisons. In the past each prison would have needed a telephone switching device of some sort that would have required a significant capital investment. Further, the requirement of having sophisticated equipment at prisons also meant

that the prison calling provider had to maintain an extensive fleet of technicians to keep the dispersed equipment in the network functioning. But the day of needing to make big capital investments at prisons is gone. Today, the prison providers can deploy one, or a few large softswitches in their network nationwide to handle the calls from all of the jails and the prisons on their network.

23. This change to a centralized switching and processing has been further enabled by a change in the way that calls get to and from prisons to the outside world. It was not too many years ago that prison providers had to buy very expensive T1s to carry voice calls. And since one T1 can handle 24 calls at most, larger prisons required multiple T1s. Today the prisons (along with many normal businesses) are converting to IP based voice switching. The prison provider now can order DSL, a cable modem or some other sort of ethernet connection at a prison and use that connection to route calls back to the centralized switching location. These connections are significantly less expensive than T1s and are more efficient. This new method of sending and receiving calls over ethernet is generically referred to as Voice over IP (VoIP).

24. Today there is very little capital investment made by prison telephone provider at each prison. All of the brains of the prison calling network are housed now at large centralized locations. Today a prison calling system consists primarily of the telephones, an ethernet pipe to the outside world and some sort of small data router. Everything else is done at the centralized hubs in the network. One of the benefits of centralization for the prison providers is that there is significantly less labor required to keep prison systems operating. It was not unusual in the past for a prison telephone provider to maintain large fleets of service personnel who were needed to trouble shoot and keep the prison telephone systems operating. Today that task is mostly done

from a centralized location and technicians rarely have to visit the prisons other than to deal with the telephone handsets. When trouble shooting is needed it can usually be done by a technician from the centralized hub. The savings in labor costs are dramatic compared to just a few years ago.

25. I have participated in many dockets in the past that looked at prison calling systems where the prison providers testified about their investments in developing centralized software for handling the penological requirements of a prison. In the not too distant past they would have to create different versions of software for different prisons and different states. However, software has also gotten much more sophisticated in the last few years. Prison calling providers now have one large software system that will handle just about any penological need and allows providers to quickly choose the functions they want from a menu to apply to a given prison. In the past they might have maintained different versions of software for different prison systems, but today they maintain one giant program that can accommodate every system.

26. Prison telephone systems are the perfect example of an economy of scale business. The more jails and prisons any one provider can add to their system, the more profitable they can be for every prison on the network. Most of a prison provider's costs are now fixed at big hub locations and a much smaller percentage of their costs are driven incrementally at each prison.

27. Several years ago I did cost estimates of the cost of prison calling where I estimated that the cost per minute was in the six to seven cent per minute range. I have not yet updated that estimate for the issues discussed above, but I would have to guess today that the net effect of all of the above changes have probably cut the cost at least in half on a per minute basis.

V. SUMMARY

28. This affidavit summarizes an abundance of evidence that prison rates are now out of line with costs, which I am prepared to present in more detail as this case proceeds. First there are states where prison providers are operating today using rates that are significantly lower than the rates charged in Massachusetts today, while costs across states remain virtually the same. That fact alone is enough evidence that there is room for rate cuts in the rates here and that Massachusetts rates are unreasonable. Secondly, the prison providers are benefitting from tremendous reductions in their cost of providing service without having seen any corresponding cut in the rates they charge. Prison providers should, of course, make a profit, but the existing rates yield excessive profits that are unnecessarily burdensome to consumers in this instance. There are sufficient issues worth exploring in this docket that would support this Commission taking a harder look at prison telephone rates in Massachusetts.



DOUGLAS A. DAWSON