Appendix B
May 19, 2015
VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554


Dear Secretary:

Securus Technologies, Inc. (“Securus”) hereby responds to the Notice of Ex Parte that CenturyLink filed in this docket on May 14, 2015 (“CTL Ex Parte”). Specifically, Securus would like to address CenturyLink’s proposals regarding so-called “ancillary fees” related to Inmate Calling Services (“ICS”).

CenturyLink asks the Commission to “eliminate all but a very narrow class of ancillary fees,” CTL Ex Parte at 1, and asserts that “[p]remium or convenience payment options should either be prohibited or allowed only when parties billed would incur rates and fees that match all other billing options.” Id. at 2. Securus has addressed this kind of proposal before: “Demands for the elimination of these types of transaction fees appear to stem more from competitive envy than sound policy.”¹ The fact that some carriers have declined to obtain or develop these optional services certainly is not grounds to punish the carriers that have done so.

To eliminate the majority of ancillary fees would be to eliminate many innovative, helpful, consumer-oriented services that have provided more and quicker access to ICS for inmates and their called parties. These services include Text2Connect and PayNow which, as Securus has explained, are each an “optional, promotional program”² that enable inmates to get connected immediately, with zero delay, and without either party having to set up a permanent account. They require two, affirmative opt-ins by the called party: one to accept the inmate’s call and one

² WC Docket No. 12-375, Comments of Securus Technologies, Inc. at 27 (Jan. 12, 2015) (quoting Declaration of Dennis Rose, Senior Director – Billing, ¶¶ 4, 6 (Jan. 9, 2015)) (emphasis in original).
to accept the one-time charge.\textsuperscript{3} They are particularly valuable in short-term situations in which someone must reach their attorney, loved one, or a bondsman right away – obtaining faster release benefits not only the arrestee but also the jail. Text2Connect and PayNow are “a game-changer,”\textsuperscript{4} and Securus incurred a great deal of costs to set them up as well as considerable costs for each transaction.\textsuperscript{5} To the extent that parties have opined that ICS carriers reap tremendous revenue from ancillary fees, Securus notes that it receives a very small portion of its revenue from ancillary fees.

Most significantly, Text2Connect and PayNow rely on a third-party vendor that charges Securus on a per-occurrence basis. In all, Securus has invested approximately \textbf{S40 Million} to establish optional, convenient methods for inmates to reach their friends and families.

As Securus has stated,

\begin{quote}
It cannot be emphasized enough that these methods of paying for calls are optional and in addition to the placement of regular, direct-dialed calls to which the forthcoming rate cap with apply. These products are not intended or marketed as a substitution for traditional calls. They are, however, valuable additions to Securus’s panoply of services that did not exist 10 years ago and have materially increased inmates’ ability to complete calls to friends and family.\textsuperscript{6}
\end{quote}

Simply put, CenturyLink’s proposal would decrease inmates’ access to telephones which is exactly contrary to the Commission’s goal in this proceeding.\textsuperscript{7}

\textsuperscript{3} WC Docket No. 12-375, Letter from Stephanie A. Joyce, Counsel to Securus, to Marlene H. Dortch, FCC, at 5 (Oct. 6, 2014).
\textsuperscript{4} Securus Comments at 27.
\textsuperscript{5} Rose Decl. ¶¶ 4-6.
\textsuperscript{6} Securus Comments at 27-28.
\textsuperscript{7} WC Docket No. 12-375, Second Further Notice of Proposed Rulemaking ¶ 2 (Commission’s goal is “making it easier for inmates to stay connected to their families and friends.”); \textit{Inmate Rate Order} ¶ 2 (“promote the general welfare of our nation by making it easier for inmates to stay connected to their families and friends while taking full account of the security needs of correctional facilities.”).
CenturyLink also asks the Commission to “cap transaction fees for prepaid services at $5.95 per transaction involving a live operator and $3 per transaction for automated transactions.” CTL Ex Parte at 2. Those rates are demonstrably below Securus’s costs. They would make it impossible for Securus to allow payments by credit card. That result would hurt inmates, not help them.

Finally, Securus reminds the Commission that the ICS Industry Proposal filed September 15, 2014, would eliminate 19 different ancillary fees.

The services that CenturyLink proposes to abolish or render impossible to provide are the result of considerable investment and work. Securus made the decision to develop these services and expend $40 Million on them. They were put in place to make it easier to for inmates to make contact and to enhance the end user experience. Most importantly, these services are optional: as Securus assured the Commission, “[p]ayment by check or money order always will be available and free of charge.”10 It is the opposite of sound policy to take these options away from consumers, whether by express rule or unreasonable ratemaking.

Thank you for your consideration.

Sincerely,

s/Stephanie A. Joyce
Counsel to Securus Technologies, Inc.

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8 Rose Decl. ¶ 3.
9 WC Docket No. 12-375, Letter from Global Tel*Link Corporation, Securus, and Telmate LLC to Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O’Rielly, Attachment (Sept. 15, 2014) (filed by Cherie Kiser, Counsel to Global Tel*Link) (“ICS Industry Proposal”). The carriers made this offer in compromise but do not concede that the FCC has jurisdiction over the ancillary fees it seeks to address, particularly fees to third-party financial institutions and money-transfer services. E.g., ICS Industry Proposal at 4; Securus Comments at 25; Securus Technologies, Inc. Reply Comments in Response to DA 13-1445 at 1-2 (July 24, 2013) (citing, inter alia, American Library Ass’n v. FCC, 406 F.3d 689, 691 (D.C. Cir. 2005) (vacating broadcast flag rules as outside the Commission’s authority); Louisiana Pub. Serv. Comm’n v. FCC, 476 U.S. 355, 374 (1986); Comcast v. FCC, 600 F.3d 642 (D.C. Cir. 2010) (vacating BitTorrent decision)).

10 Securus Reply Comments at 19.
cc: Chairman Tom Wheeler
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Commissioner Michael O’Rielly
Rebekah Goodheart, Legal Advisor to Commissioner Clyburn
Pamela Arluk, Acting Chief, Pricing Policy Division, Wireline Competition Bureau
Lynne Engledow, Acting Deputy Chief, Pricing Policy Division, Wireline Competition Bureau
David Zesiger, Acting Deputy Chief, Pricing Policy Division, Wireline Competition Bureau
Rhonda Lien, Pricing Policy Division, Wireline Competition Bureau

(All via electronic mail)