Federal Communications Commission
Washington, D.C. 20554

December 3, 2015

DA 15-1382

Robert Pickens
President
Securus Technologies, Inc.
3000 Kellway Dr. #150
Carrolton, TX 75006

RE: WC Docket No. 12-375, *In the Matter of Rates for Interstate Inmate Calling Services*

Dear Mr. Pickens:

I am writing in response to a letter that Securus Technologies, Inc. (Securus) apparently sent to one or more customers on November 13, 2015.[1] Specifically, I want to address the letter's inaccurate and misleading statements regarding mandatory fees, which mischaracterize the Commission's actions in the *2015 ICS Order*.[2]

Contrary to the suggestion of the *Securus Letter*, the Commission has not sanctioned any proposal for correctional facilities to continue collecting site commissions "over and above the rate cap" by "get[ting] a Mandatory Fee authorized and assessed . . . that can be passed on to consumers."[3] In permitting ICS providers to pass mandatory taxes and fees through to consumers, without any mark-up,[4] the *2015 ICS Order* defines the mandatory taxes and fees eligible for pass through as "amounts that a carrier is required to collect directly from customers, and remit to federal, state or local governments."[5] This decision allows providers to collect Universal Service fees, and similar government taxes and fees, from consumers and remit the funds to the relevant government entity.[6] Also contrary to a statement in the *Securus Letter*, the Commission's decision to allow providers to pass such fees and taxes on to end users did not invite the creation of an alternative means for correctional facilities to "generate some level of funding through inmate calling services."[7] Indeed, such a result would run counter to the Commission's stated goal of eliminating loopholes and providing relief to ICS users by reducing their bills to fair and reasonable levels, commensurate with the costs of providing inmate calling services.[8]

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[1] Letter from Lee G. Petro, Counsel to Wright Petitioners, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 12-375, Attach. at Exh. B (filed Nov. 20, 2015) (*Securus Letter*).

[2] *See Securus Letter* at 1; *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 15-136 (2015) (*2015 ICS Order*).

[3] *Securus Letter* at 1.

[4] *2015 ICS Order*, FCC 15-136, at paras. 191-192; *see also id.* at Appendix A, 47 C.F.R. §§ 64.6020, 64.6070.

[5] *Id.* at para.191, Appendix A, 47 C.F.R. § 64.6000 (n).

[6] *See, e.g.*, *id.* at para. 192, n. 687. Notably, Securus and other ICS providers had advocated to the Commission that providers be permitted to impose taxes and fees "consistent with *existing* federal and state requirements . . . ." Letter from Brian D. Oliver, Chief Executive Officer, GTL, Richard A. Smith, Chief Executive Officer, Securus, and Kevin O'Neil, President, Telmate, to Chairman Tom Wheeler, Chairman, FCC, WC Docket No. 12-375, at 4-5, n. 13 (filed Sept. 15, 2014) (emphasis added).

[7] *Securus Letter* at 1.

[8] *See 2015 ICS Order*, FCC 15-136, at paras. 1-2, 9.

Although this letter is only meant to correct some of the misconceptions that might have been created by the *Securus Letter*, I note that, as the Commission stated in the *2015 ICS Order*, "[w]e will be vigilant in monitoring the [ICS] industry . . . . If we observe or are made aware of evidence of price gouging or other harmful behavior through, but not limited to, increased rates, ancillary service charges, and/or site commissions, we will not hesitate to take appropriate remedial action up to and including enforcement action pursuant to our legal authority under sections 201 and 276 or referral to another appropriate agency."[9]

I hope this letter clears up any misunderstandings that may have led to the misleading statements in the *Securus Letter*.

Sincerely,

Matthew S. DelNero
Chief, Wireline Competition Bureau
Federal Communications Commission

cc: National Sheriffs' Association
American Jail Association
American Correctional Association

[9] *Id.* at para. 260.