



# PUBLIC NOTICE

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DA 13-961  
Released: April 29, 2013

## Applications Granted for the Transfer of Control of the Operating Subsidiaries of Securus Technologies Holdings, Inc. to Securus Investment Holdings, LLC

### WC Docket No. 13-79

Connect Acquisition Corp. (Connect), T-NETIX, Inc. (T-NETIX), T-NETIX Telecommunications Services, Inc., (T-NETIX Telecom), Securus Technologies, Inc. (STI), and Securus Investment Holdings, LLC (Securus Investment) (collectively Applicants) filed applications, pursuant to section 214 of the Communications Act of 1934, as amended,<sup>1</sup> for the transfer control of T-NETIX, T-NETIX Telecom, and STI to Securus Investment.<sup>2</sup> The Wireline Competition Bureau (WCB) and International Bureau (IB) have determined that grant of these Applications, as conditioned, serves the public interest, and accordingly the Applications are granted with the condition stated herein.

T-NETIX, T-NETIX Telecom, and STI provide inmate calling services and public payphone services principally to or at confinement facilities. The three companies are currently indirectly owned by investment funds managed by Castle Harlan, Inc., a private equity investment firm. Securus Investment, the proposed transferee, is approximately 95.3 percent indirectly owned by Securus Special Investments, LLC (SSI), which in turn is 66.88 percent owned and controlled by ABRY Partners VII, L.P., an affiliate of ABRY Partners, a Boston-based private equity investment firm focused solely on media, communications, business, and information services investments. Most of the remaining interest in SSI is owned by HarbourVest Partners 2012 Direct Fund LP and Redoak Investments LLC, each with a 15.43 percent interest, and each of which is managed by HarbourVest Partners, LLC. Harbour Vest Partners, LLC, in turn, is owned by nineteen individuals, none of whom control the entity.<sup>3</sup>

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<sup>1</sup> 47 U.S.C. § 214.

<sup>2</sup> Joint Application for Expedited Approval of Indirect Transfer of Control of Securus Technologies, Inc. (STI Application); Joint Application for Expedited Approval of Indirect Transfer of Control of T-NETIX Telecommunications Services, Inc. (T-NETIX Telecom Application); Joint Application for Expedited Approval of Indirect Transfer of Control of T-NETIX, Inc. (T-NETIX Application), WC Docket No. 13-79 (filed Mar. 18, 2013), File Nos. ITC-T/C-20130315-00074 (STI) and ITC-T/C-20130315-00075 (T-NETIX) (filed Mar. 15, 2013) (Applications). WCB and IB removed the Applications from streamlined processing on April 26, 2013. *Notice of Removal of Domestic Section 214 Applications from Streamlined Treatment*, WC Docket No. 13-79, Public Notice, DA 13-950 (rel. Apr. 26, 2013); *Streamlined International Applications Accepted For Filing*, Public Notice, Report No. TEL-01614S (rel. Apr. 26, 2013).

<sup>3</sup> See e.g., STI Application at 3-5, 9-10, Attach. A and B.

We received one petition to deny the proposed transaction.<sup>4</sup> Petitioners claim that Applicants fail to demonstrate that the transaction will further the public convenience and necessity. They argue that Applicants have not explained how STI, T-NETIX, and T-NETIX Telecom will deploy financial resources to enhance existing services to benefit customers.<sup>5</sup> They claim that these companies currently charge exorbitant rates for inmate calling services and claim that Applicants have not shown whether the transferee, Securus Investment, is owned by entities with complementary holdings such that it would have an incentive to cause competitive harm.<sup>6</sup> They urge the Commission to analyze the national and local inmate calling markets to determine whether Applicants have a de facto monopoly in the prison facilities they serve.<sup>7</sup>

In their Opposition, Applicants state that the proposed transaction requests approval to transfer equity ownership to a better funded owner with communications expertise and that it will not impact competition in the provision of inmate telecommunications services.<sup>8</sup> Applicants deny any monopoly concerns, citing the long-standing “single provider model for correction facilities ... recognized by the Commission for many years” and the fact that the inmate service providers must compete for contracts to serve confinement facilities.<sup>9</sup> They state that they have disclosed the required information about all telecommunications affiliates of ABRY, Inc. (ABRY), the owner of Securus Investment, and that those affiliates are non-dominant and do not provide inmate calling services.<sup>10</sup> Applicants also assert that Petitioners impermissibly seek to use this proceeding to resolve broader rate issues already being addressed in an ongoing rulemaking proceeding in the *Inmate Calling NPRM*.<sup>11</sup> Finally, Applicants state that Petitioners lack standing to oppose the transaction because they have failed to make a *prima facie* showing that they are a party in interest, and that a grant of the application would be inconsistent with the public interest as required by the Commission’s rules.<sup>12</sup>

In their Reply, Petitioners reiterate that Applicants have not provided affirmative information that the transaction is in the public interest, have failed to define the relevant product and geographic market for inmate calling services, and have failed to demonstrate that the transaction will not result in competitive harm.<sup>13</sup> Millicorp d/b/a ConsCallHome (Millicorp), a Voice over Internet Protocol (VoIP)

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<sup>4</sup> Public Knowledge, United Church of Christ, Office of Communications Inc., Free Press, and Rainbow/PUSH Coalition Petition to Deny Applications, WC Docket No. 13-79 (filed Apr. 11, 2013) (Petition).

<sup>5</sup> *Id.* at 3-4.

<sup>6</sup> *Id.* at 7-8.

<sup>7</sup> *Id.* at 5-6.

<sup>8</sup> Opposition to the Petition to Deny, WC Docket No. 13-79 (filed Apr. 15, 2013) (Opposition).

<sup>9</sup> *Id.* at 6 (citing *Billed Party Preference for InterLATA 0+ calls*, CC Docket No. 92-77, Second Report and Order and Order on Reconsideration, 13 FCC Rcd 6122, 6156, para. 57 (1998)).

<sup>10</sup> Opposition at 8.

<sup>11</sup> *Id.* at 9-10 (citing *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Notice of Proposed Rulemaking, 27 FCC Rcd 16629 (2012) (*Inmate Calling NPRM*)).

<sup>12</sup> Opposition at 11 (citing 47 C.F.R. § 1.939(d)).

<sup>13</sup> Public Knowledge, United Church of Christ, Office of Communications Inc., Free Press, and Rainbow/PUSH Coalition Reply to the Opposition to the Petition to Deny Applications, WC Docket No. 13-79, at 5-8, 11-13 (filed Apr. 25, 2013) (Petitioner Reply).

provider that serves inmate calling customers, also filed a Reply supporting Petitioners' arguments and asserting that Securus is illegally blocking inmate calls to competitive VoIP providers in violation of sections 201(b) and 202 of the Act<sup>14</sup> and the Commission's policy prohibiting call blocking.<sup>15</sup> Millicorp urges the Commission to investigate the call blocking practices of Securus that are raised in a separate petition for declaratory ruling and requests that we condition a grant of the Applications on an agreement by Applicants to cease blocking inmate calls to the customers of Millicorp and similarly situated VoIP providers.<sup>16</sup> On April 26, 2013, Applicants filed a letter in this docket agreeing to cease blocking inmate-initiated calls to Millicorp telephone numbers in accordance with procedures agreed to between the companies.<sup>17</sup> The Commitment Letter also states that Applicants have no objection to the Commission's inclusion of their blocking commitments in any grant of the Applications.<sup>18</sup> Also on April 26, 2013, Millicorp withdrew its opposition to the Applications, stating that its withdrawal was predicated on Applicants' Commitment Letter.<sup>19</sup>

We find that the claims raised in the Petition to Deny are not specific to this transaction and are more appropriately addressed in the *Inmate Calling NPRM* proceeding, where a rulemaking record is already being compiled on the specific issues that Petitioners raise.<sup>20</sup> As Applicants state, the transferee

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<sup>14</sup> 47 U.S.C. §§ 201(b), 202.

<sup>15</sup> Reply of Millicorp to the Opposition of Securus Technologies, Inc., T-NETIX, Inc.; T-NETIX Telecommunications Services, Inc.; Connect Acquisition Corp.; and Securus Investment Holdings, LLC to the Petition to Deny by Public Knowledge, United Church of Christ, Office of Communications Inc., Free Press, and Rainbow/PUSH Coalition, WC Docket No. 13-79, at 3-9 (filed Apr. 26, 2013) (Millicorp Reply) (citing *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform -- Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17763, 17903, para. 734 (2011) (*USF/ICC Transformation Order*) (internal citations omitted); *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, Declaratory Ruling, 27 FCC Rcd 1351, 1354-55, para. 10 (WCB 2012)).

<sup>16</sup> Millicorp Reply at 3-9 (citing Petition for Declaratory Ruling of Securus Technologies, Inc., WC Docket No. 09-144 (filed July 24, 2009) (Securus Call Blocking Petition)). Securus's Call Blocking Petition requests that the Commission issue a declaratory ruling that Securus is permitted to block what it refers to as "call diversion schemes," under which it claims companies re-route inmate-initiated calls to unknown terminating telephone numbers. It states that this encourages calling parties to defraud correctional facilities and serving telephone providers and is comparable to dial-around calling that is prohibited for inmate calls. *Comment Sought on Petition for Declaratory Ruling of Secures Technologies, Inc.*, WC Docket No. 09-144, Public Notice, 24 FCC Rcd 10603 (WCB 2009). See Letter from Phil Marchesiello, Counsel to Millicorp, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-79, at 2-7 (filed Apr. 25, 2013) (Millicorp Ex Parte Letter).

<sup>17</sup> Letter from Dennis J. Reinhold, Vice President, General Counsel and Secretary, Securus Technologies, Inc., to Julie Veach, Chief, WCB, WC Docket No. 13-79 (filed Apr. 26, 2013) (Commitment Letter).

<sup>18</sup> *Id.* at 2.

<sup>19</sup> Letter from Phillip R. Marchesiello, Counsel to Millicorp, to Julie Veach, Chief, WCB, WC Docket No. 13-79 (filed Apr. 26, 2013).

<sup>20</sup> See *Application of AT&T Inc. and BellSouth Corporation Application to Transfer Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5681, para. 39 (2007) (*AT&T/BellSouth Order*);

does not currently hold interests in other inmate calling providers; thus, there is no increase in concentration for these services as a result of the proposed transaction, and the transaction itself will have not have a significant impact on competition for these services.<sup>21</sup> In the *Inmate Calling NPRM*, the Commission is addressing the broader public interest concerns raised by Petitioners, including the reasonableness of rates for inmate calling services, the extent to which market forces should impact rates, whether the Commission should mandate rate caps for services, and whether the existing customer contract process that is specific to inmate calling impacts competition for these services.<sup>22</sup> Petitioners are active participants in the rulemaking proceeding<sup>23</sup> and have in fact filed notice in that docket that they are negotiating with Applicants to address long-standing policy concerns.<sup>24</sup> We therefore deny the Petition.

In addition, Securus has agreed with Millicorp to cease and desist blocking inmate-initiated calls to Millicorp telephone numbers in accordance with procedures agreed to between the companies, and has agreed to abide by this commitment as a condition of approval of this transaction. While we recognize that the Commission is addressing specific issues associated with blocking inmate calls in the *Securus Call Blocking Petition* proceeding, and we do not prejudge those issues here, we note that the Commission has stated in other contexts that call blocking has the potential to degrade the reliability of the nation's telecommunications network and ultimately harms consumers of voice services, including VoIP.<sup>25</sup> We believe that the agreement between Securus and Millicorp will lead to public interest benefits in greater communication between inmates and their families.<sup>26</sup> We therefore accept Securus's commitment and make it a binding and enforceable condition of our approval.<sup>27</sup> Our public interest authority enables us, where appropriate, to impose and enforce narrowly tailored, transaction-specific

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*Applications Filed By Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control*, WC Docket No. 10-110, Memorandum Opinion and Order, 26 FCC Rcd 4194, 4201, para. 18 and n.62 (2011) (finding that rate issues related to special access, intercarrier compensation, and pole attachments are better addressed in rulemakings of general applicability or are not specific to the transaction). We also note that Applicants state that they "have no intention whatsoever of using the Transaction to delay the pending inmate telephone rate proceeding." See Letter from Monica S. Desai, Counsel for Securus Technologies, Inc., to Marlene H. Dortch, Secretary, WC Docket No. 13-79, at 4 (filed Apr. 24, 2013) (Securus Apr. 24 Letter). We note that, in this case, Petitioners have standing as representatives of consumers of the relevant services.

<sup>21</sup> Opposition at 6-7; Letter from Monica S. Desai, Counsel for Securus Technologies, Inc., to Marlene H. Dortch, Secretary, WC Docket No. 13-79 at 2 (filed Apr. 17, 2013) (Securus Apr. 17 Letter); Securus Apr. 24 Letter at 2

<sup>22</sup> *Inmate Calling NPRM*, 27 FCC Rcd at 16636-46, paras. 16-46.

<sup>23</sup> Comments filed by Phone Justice Group (including Free Press, Public Knowledge, United Church of Christ, Office of Communications Inc.), WC Docket No. 12-375 (filed Mar. 25, 2013).

<sup>24</sup> Letter from Harold Feld, Senior Vice President, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 12-375 (filed Apr. 17, 2013).

<sup>25</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 18028-29, paras. 973-74.

<sup>26</sup> The Commission has stated that regular telephone contact between inmates and their families is an important public policy matter, and has taken note that the Government Accountability Office has twice recognized that contact with family "aids an inmate's success when returning to the community" and thus lowers recidivism. *Inmate Calling NPRM*, 27 FCC Rcd at 16631-32, para. 4 (and cites therein).

<sup>27</sup> The terms of the agreement would not supersede any contradictory result required by Commission action in pending proceedings.

conditions to ensure that the public interest is served.<sup>28</sup> In addition, a threshold requirement in our transaction review process is whether the Applicants meet the requisite character qualifications to hold Commission licenses.<sup>29</sup> To meet this requirement, Commission precedent requires that an applicant must operate in a manner consistent with the Act and the Commission's rules.<sup>30</sup> We conclude that the Securus commitment will further the public interest, and we are satisfied that Securus is qualified to hold an authorization. We also emphasize that, although we do not have specific facts in this record on the proposed transaction to determine if there are blocking concerns associated with other VoIP providers, we will take action as appropriate to address fact-specific information regarding actions inconsistent with the statute or our rules or precedent that is developed in our related proceedings.

Upon review of the record, we find that the transaction is likely to result in certain public interest benefits, including increased capital resources available to Applicants to make service improvements.<sup>31</sup> In addition, Applicants affirm that they will continue to be bound by existing contract rates for service to customers and that there will be no changes in rates, terms, or conditions of service as a result of the transaction.<sup>32</sup> Nonetheless, this grant does not approve the current rates, terms, or conditions, and as noted above, the Commission is reviewing those issues in the *Inmate Calling NPRM* proceeding.<sup>33</sup> Accordingly, and subject to the condition stated above, we find that grant of the Applications will serve the public interest, convenience, and necessity.

Pursuant to sections 4(i) and 214 of the Communications Act of 1934, as amended,<sup>34</sup> and sections 0.291 and 0.261 of the Commission's rules,<sup>35</sup> WCB and IB, under delegated authority, approve the Applications listed herein subject to the condition stated above.

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<sup>28</sup> See, e.g., *AT&T/BellSouth Order*, 22 FCC Rcd at 5674, para. 22.

<sup>29</sup> See *id.* at 5756, para. 191; *Applications of Guam Cellular and Paging, Inc. and DoCoMo Guam Holdings, Inc.*, WT Docket No. 06-96, Memorandum Opinion and Order and Declaratory Ruling, 21 FCC Rcd 13580, 13590, para. 14 (2006).

<sup>30</sup> See *Policy Regarding Character Qualifications in Broadcast Licensing Proceedings*, Gen. Docket No. 81-500, Docket No. 78-108, 102 F.C.C.2d 1179, 1189, 1209, paras. 21, 55-56 (1986).

<sup>31</sup> Securus Apr. 17 Letter at 2-3; STI Application at 6; T-NETIX Telecom Application at 12; T-NETIX Application at 6.

<sup>32</sup> STI Application at 6; T-NETIX Telecom Application at 12; T-NETIX Application at 6; Opposition at 10-11; Securus Apr. 17 Letter at Att. (Declaration of Dennis Reinhold) at paras.5- 6; Securus Apr. 24 Letter at 2.

<sup>33</sup> We note that Applicants state that they "look forward to meeting with any public interest group to discuss the issues raised in the pending rulemaking proceeding." Securus Apr. 24 Letter at 4. The Commission has encouraged such discussions in the proceeding, and the Bureaus expect Applicants to fulfill this commitment.

<sup>34</sup> 47 U.S.C. §§ 154(i), 214.

<sup>35</sup> 47 C.F.R. §§ 0.291, 0.261.

**SECTION 214 AUTHORIZATIONS**

**A. International**

The International Bureau grants the applications to transfer control of international section 214 authorizations held by STI and T-NETIX to Securus Investment.

<u>File Number</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-T/C-20130315-00074	Securus Technologies, Inc.	ITC-214-19991115-00713
ITC-T/C-20130315-00075	T-NETIX, Inc	ITC-214-19980312-00185

**B. Domestic**

The Wireline Competition Bureau grants the Applications to transfer control of domestic section 214 authority in connection with the proposed transaction.

For further information, please contact Jodie May, (202) 418-0913, Competition Policy Division, Wireline Competition Bureau; David Krech, Policy Division, International Bureau, (202) 418-7443.

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