



# PUBLIC NOTICE

Federal Communications Commission  
45 L St., N.E.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <http://www.fcc.gov>

DA 21-793  
July 6, 2021

## DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF PREFERRED COMMUNICATIONS OF TEXAS, LLC FROM EMBARQ CORPORATION TO SECURUS TECHNOLOGIES, LLC

### NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 21-275

**Comments Due: July 20, 2021**  
**Reply Comment Due: July 27, 2021**

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Embarq Corporation (Embarq) and Securus Technologies, LLC (Securus) (together, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,<sup>1</sup> requesting consent to transfer control of Preferred Communications of Texas, LLC (Preferred) from Embarq to Securus.<sup>2</sup>

Preferred, a Delaware limited liability company, is a wholly-owned, direct subsidiary of Embarq.<sup>3</sup> According to Applicants, Preferred's sole asset is the contract to provide "customer account creation and maintenance services related to inmate calling" to the Texas Department of Criminal Justice (TDCJ and TDCJ Contract).<sup>4</sup> They state that Preferred is currently the primary contractor and Securus is the subcontractor providing call routing, security, software, and other services necessary to fulfill the TDCJ contract.<sup>5</sup> With the transfer of Preferred, Embarq would completely exit the inmate calling services market.<sup>6</sup>

<sup>1</sup> See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

<sup>2</sup> Joint Application for Consent to Transfer Control of Domestic Section 214 Authorization, WC Docket No. 21-275 (filed June 24, 2021) (Application).

<sup>3</sup> Application at 1. Embarq is a wholly-owned direct subsidiary of Lumen Technologies, Inc. (formerly CenturyLink, Inc.).

<sup>4</sup> At the time of the signing, the TDCJ Contract included 110 facilities and an estimated 155,239 incarcerated persons, of which an estimated 134,064 were eligible to make use of the communications services. *Id.* at 5. Currently, the TDCJ facilities have a total average daily population of approximately 120,000. *Id.*

<sup>5</sup> *Id.* at 1. Applicants state that Embarq formed Preferred in 2020 to hold the TDCJ Contract when it sold the rest of its inmate calling services business to Inmate Calling Solutions, LLC (d/b/a ICSolutions). *Id.* at 3, 8-9.

Securus, a Delaware limited liability company, provides services and products to incarcerated individuals, including inmate calling services, in the District of Columbia and 47 states.<sup>7</sup> Securus is an indirect, wholly-owned subsidiary of SCRS Acquisition Corporation (SCRS) and, in turn, its parent, SCRS Holding Corporation (SCRS Parent), both Delaware corporations.<sup>8</sup> The majority ownership of SCRS Parent is held by Platinum Equity Capital Partners, IV, L.P., a Delaware limited partnership and private equity investment vehicle ultimately owned by Platinum Equity, LLC (Platinum Equity), a Delaware entity.<sup>9</sup>

On June 9, 2021, Embarq and Securus entered into a Membership Purchase Agreement under which Securus would acquire from Embarq all of the membership interests and equity in Preferred.<sup>10</sup> After consummation, Preferred would become a wholly-owned subsidiary of Securus.<sup>11</sup> Applicants state that the TDCJ entered into the contract with Embarq on September 1, 2018, and that pursuant to Texas law, inmate calling services contracts must extend for a period of at least seven years and include two-year optional renewal terms.<sup>12</sup> The initial term of the TDCJ Contract will therefore expire in August 2025, and it reserves for TDCJ the right to exercise three optional two-year renewal terms.<sup>13</sup>

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity. They maintain that Securus would continue to provide inmate calling services at the same rates, terms and conditions that Preferred currently provides and that it would also offer “more responsive and innovative services” in conjunction with existing services.<sup>14</sup> Further, Applicants assert that the proposed transaction does not eliminate any competitors from the market since Embarq had previously decided to exit this business, and “numerous competitors would remain after this proposed transaction,” including a strengthened ICSolutions following its acquisition of Embarq’s other inmate calling service contracts in 2020.<sup>15</sup>

Because the transaction involves inmate calling services, and the Commission has recognized that the inmate calling services market is different from other telecommunications

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*See Applications Granted for the Transfer of Control of CenturyLink Public Communications, Inc. to Inmate Calling Solutions, LLC d/b/a ICSolutions, WC Docket No. 20-150, Public Notice, 35 FCC Rcd 8661 (WCB, IB 2020).*

<sup>6</sup> Application at 2.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 3, 11-15. Applicants state that the sole manager of Platinum Equity, LLC is Tom Gores. *Id.* at 15. All the membership interests of Platinum Equity are held in trust by the Gores Trust dated January 26, 1999, as amended. *Id.* Tom Gores and Holly Gores, both U.S. citizens, are the trustees of the Gores Trust. *Id.*

<sup>10</sup> *Id.* at 3-4.

<sup>11</sup> *Id.* at 4.

<sup>12</sup> *Id.* at 5 and n.3 (citing Tex. Gov’t Code Ann. § 495.027(b)).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 2, 6.

<sup>15</sup> *Id.* at 8-10.

markets,<sup>16</sup> in order to analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined filing.<sup>17</sup>

Domestic Section 214 Application Filed for the Transfer of Control of Preferred Communications of Texas, LLC from Embarq Corporation to Securus Technologies, LLC, WC Docket No. 21-275 (filed June 24, 2021).

## **GENERAL INFORMATION**

The application identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

Interested parties may file comments **on or before July 20, 2021**, and reply comments **on or before July 27, 2021**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper.

- **Electronic Filers:** Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/> and IBFS at <http://licensing.fcc.gov/myibfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
  - Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.<sup>18</sup> All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

**People with Disabilities:** We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

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<sup>16</sup> See *Rates for Interstate Calling Services*, WC Docket No. 12-375, Report and Order on Remand and Fourth Further Notice of Proposed Rulemaking, 35 FCC Rcd 8485, 8486-87, para. 5 (2020) (2020 *ICS Order and NPRM*) (stating that “. . . incarcerated people and the individuals they call have no choice in their telephone service provider. Instead, their only option is typically an inmate calling services provider chosen by the correctional facility that, once chosen, operates as a monopolist.”); *Rates for Inmate Calling Services*, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 14107, 14128-29, paras. 39-41 (2013) (finding that market forces were not operating to ensure just, reasonable, and fair rates for inmate calling services, and that the absence of competitive pressures necessitated rate regulation).

<sup>17</sup> 47 CFR § 63.03(c)(1)(v).

<sup>18</sup> Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>

**In addition, e-mail one copy of each pleading to each of the following:**

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, [tracey.wilson@fcc.gov](mailto:tracey.wilson@fcc.gov);
- 2) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, [dennis.johnson@fcc.gov](mailto:dennis.johnson@fcc.gov); and
- 3) Jim Bird, Office of General Counsel, [jim.bird@fcc.gov](mailto:jim.bird@fcc.gov).

The proceeding in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.<sup>19</sup> A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

For further information, please contact Tracey Wilson at (202) 418-1394 or Dennis Johnson at (202) 418-0809, Wireline Competition Bureau.

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<sup>19</sup> See 47 CFR § 1.45(c).