

**STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD**

IN RE:	
GLOBAL TEL*LINK CORPORATION	DOCKET NO. TF-2019-0039

**RESPONSE TO OFFICE OF CONSUMER ADVOCATE’S COMMENTS**

Global Tel\*Link Corporation (“GTL”) submits this Response to the Comments of the Office of Consumer Advocate (“OCA”) filed on September 30, 2020. Per the clarifying comments delineated herein on its revised tariff, submitted on September 21, 2020 (the “Tariff”), GTL anticipates its approval by the Iowa Utilities Board (“Board”).

1. The OCA raises three issues in its Comments for the Board’s consideration. First, it claims that revised Section 2.10.4 “does not provide the requisite clarity” as directed by the Board’s August 20, 2020 Order Requiring Filing of Tariff Revisions (“Order”). The OCA states that “[t]he provision refers both to calls to bail bondsmen and to ‘all inmate calls;’” claims that Section 2.10.4 fails to explain “what the billing of calls to bails bondsmen has to do with the blocking of calls to certain telephone numbers;” and notes the lack of a “standard or set criteria for how a predetermined amount is determined.”

2. The OCA misapprehends Section 2.10.4, which *only* concerns calls placed by inmates to bail bondsmen. This is clear both in the construction of the statement of noncompliance therein (whereby correctional facilities may engage in call blocking “*pursuant to* calls placed directly by inmates to bail bondsmen”) and in comparison to the statement of noncompliance in Section 3.4, which explains how blocking and screening capabilities may generally be employed by correctional facilities for *all* inmate telecommunications traffic. As to

the OCA's questions concerning the relationship and billing and blocking, this issue was previously addressed at the July 2, 2020 Technical Conference, where GTL explained that the courtesy of permitting inmates to place collect calls to a bail bondsman is blocked when the account of the latter carries an excessive balance or is in arrears. *See* Order at 7 (summarizing GTL's statements at the Technical Conference). Because blocking arises from a fact-specific review of each account, adding "standard or set criteria" to Section 2.10.4 is neither practicable nor within the scope of the revisions set forth by the Order.

3. Next, the OCA suggests that language be added to Section 2.11 concerning GTL's observance of Federal Communications Commission ("FCC") regulations concerning the pass-through of taxes and fees to end users with respect to intrastate calls; delete a reference to the Federal Universal Fund Surcharge ("USF") or otherwise explain its inapplicability to intrastate calls; and "clarify whether and under what circumstances taxes or fees are assessed at the time when money is deposited to an account, as opposed to the time when calls are placed."

4. The OCA offers no legal or regulatory basis compelling GTL to implement these changes. In light of the OCA's markedly different treatment of similarly situated alternative operator service ("AOS") companies, GTL questions why it is being subjected to more onerous tariffing requirements than its competitors.

5. On July 28, 2020, Prodigy Solutions, Inc. ("Prodigy") filed a revised tariff in Docket TF-2019-0032. Its sole reference to mandatory taxes and fees came in Section 2.7, which stated simply: "Unless otherwise specified, all state and local taxes (e.g. sales tax, municipal utilities tax) are not included in the quoted rates."<sup>1</sup> In its Comments on Revised

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<sup>1</sup> Docket No. TF-2019-0032, *Prodigy Solutions, Inc.*, Tariff – Revised, 10 (July 28, 2020) ("Prodigy July 2020 Tariff").

Proposed Tariff, the OCA “suggest[ed] an additional provision in the tariff making clear that these [FCC] restrictions [on taxes and mandatory taxes and fees] will be observed for intrastate as well as interstate inmate calling,” akin to its proposed change to Section 2.11 of the Tariff.<sup>2</sup> The Board noted the OCA’s suggestion in its Order Requiring Filing of Revisions to Revised Tariff, but did not act upon it; Prodigy was simply instructed “list the types of taxes that are calculated by the third-party company to ensure that only mandated taxes are included in the calculation.”<sup>3</sup>

6. On October 5, 2020, Prodigy submitted a further revised tariff that incorporated the Board’s directive into a new Section 2.11:

All Mandatory Taxes, Mandatory Fees and Authorized Fees (e.g. sales tax, municipal utilities tax, Federal USF) are listed as separate line items on the bill and are not included in the approved rates in this tariff. The Mandatory Taxes, Mandatory Fees and Authorized Fees charged for inmate calling service comply with the Federal Communications Commission requirements for interstate calling.<sup>4</sup>

Notably, this section contains a reference to “Federal USF;” states that Prodigy will comply with FCC regulations governing mandatory taxes and fees on an interstate (but not intrastate) basis;<sup>5</sup> and lacks (as does the rest of the tariff) a detailed explanation concerning when and how the referenced taxes are assessed. These are the very purported shortcomings in Section 2.11 of the

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<sup>2</sup> Docket No. TF-2019-0032, *Prodigy Solutions, Inc.*, Comments on Revised Proposed Tariff, 1 (Aug. 5, 2020) (Prodigy OCA Comments).

<sup>3</sup> Docket No. TF-2019-0032, *Prodigy Solutions, Inc.*, Order Requiring Filing of Revisions to Proposed Tariff, 5-6 (Sept. 4, 2020) (“Prodigy Board Order”).

<sup>4</sup> Docket No. TF-2019-0032, *Prodigy Solutions, Inc.*, Compliance Tariff (Revised), 10 (July 28, 2020) (“Prodigy October 2020 Tariff”).

<sup>5</sup> In its definition of “Mandatory Tax or Mandatory Fee,” the tariff does specify that they “may not include a markup, unless the markup is specifically authorized by a federal, state, or local statute, rule, or regulation.” Prodigy October 2020 Tariff at 7. This formulation is, however, still distinct from the FCC-based proviso sought by the OCA with respect to both Prodigy and GTL.

GTL Tariff the OCA demands action on, yet when given the opportunity to do so with respect to Prodigy's tariff, the OCA tendered no comment on it (much less objection to it) whatsoever.<sup>6</sup> The primary purpose for these proceedings is the Board's clear desire for consistent, comprehensive, and industry-wide regulations and requirements among AOS companies.<sup>7</sup> The OCA's misguided attempts to hold GTL to a different or higher standard than its competitors should be rejected.

7. Finally, with respect to Sections 3.6 and 3.71, the OCA advocates "a provision stating that the customer is notified of the need to request a refund, because such a notice will help to avoid a forfeiture." The OCA believes it "not unreasonable to expect the inmate calling service provider to work with the correctional facility to address and resolve these issues in a way that helps to avoid a forfeiture." Alternatively, and preferably, the OCA urges GTL "to issue a debit card or transfer funds to the inmate canteen/trust account for refund at the time the inmate is released from custody."

8. The OCA's reference to a "forfeiture" is unclear. As GTL explained at length during the Technical Conference, funds in an AdvancePay® or Prepaid Debit account are not forfeited by the customer, even if he or she ceases using it for an extended period of time. Sections 3.6 and 3.7.1 plainly state that a customer may seek a refund of his or her account at any time; in the case of an account closure due to three months of zero activity, the Tariff explicitly provides that a customer may seek reactivation or a refund, even after the account is administratively closed. In short, the basis for the OCA's suggested changes – which it claims are intended to help customers "avoid a forfeiture" – rest on a false premise.

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<sup>6</sup> Docket No. TF-2019-0032, *Prodigy Solutions, Inc.*, Comments (Oct. 8, 2020).

<sup>7</sup> *See, e.g.*, Docket No. TF-2019-0032, *Prodigy Solutions, Inc.*, Petition for Intervention, 1-4 (June 29, 2020).

9. While GTL appreciates continued dialogue with the OCA and key stakeholders, it believes that mandated representations concerning customer notifications or prescribed means of issuing refunds are outside the scope of the tariffing process. The Board’s authority in this matter proceeds from Iowa Code § 476.8, which directs it to assess whether rates for telecommunications service are “reasonable and just” and ensure that each telecommunications service provider “furnish reasonably adequate service and facilities.”<sup>8</sup> AOS companies are concomitantly mandated to furnish “reasonably adequate service at rates and charges in accordance with tariffs filed with the board”<sup>9</sup> that detail “the rates and charges for its public utility services and the rules and regulations under which such services were furnished.”<sup>10</sup> These general requirements, and the Board’s prevailing public interest standard,<sup>11</sup> do not contemplate an exhaustive recounting of or control over a regulated entity’s operational decisions and business functions.

10. The OCA itself has recognized this fact. In 2014, the Board requested comment on the impact of Senate File (“SF”) 2195, which eliminated retail tariff filing requirements for local exchange carriers (“LECs”) “in response to an increasingly competitive telecommunications industry in Iowa.”<sup>12</sup> The OCA’s response emphasized “the underlying purpose” of a tariff – that “of informing customers of the terms and conditions of service,

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<sup>8</sup> Iowa Code § 476.8.1; *cf.* Docket No. RMU-2017-0004, *Rule Making Regarding Inmate Calling Rates [199 IAC Chapter 22]*, Order Terminating Rule Making, 6 (Jan. 2, 2019).

<sup>9</sup> Iowa Code § 476.3.1.

<sup>10</sup> Iowa Code § 476.4.1.

<sup>11</sup> Iowa Code § 476.1D.

<sup>12</sup> Docket No. RMU-2014-0003, *Amendments to Telephone Service Regulations [199 IAC Chapter 22]*, Information Order and Order Requesting Responses, 1 (May 30, 2014).

allowing them to make an informed decision and minimizing misinterpretation and disputes.”<sup>13</sup> Sections 3.6 and 3.71 of the Tariff, as presently written, effectuate the OCA’s understanding. By precisely conveying the means by which customers may fund an account, place a call, and obtain a refund – as well as the party to whom they should direct questions or concerns – those sections provide a robust basis for “making an informed decision” and ample protection against “misinterpretation and disputes.”

11. The OCA’s 2014 Response also asserted that in the absence of required tariffs, LECs should be legally required to “keep[ ] terms of service current, unambiguous, and available to customers either through a website or by mail upon request.”<sup>14</sup> The Board ultimately rejected the addition of new terms, holding that rules mandating that LECs “develop a catalog or service guide, make the utility’s retail rates available on the utility’s web site, and disclose the availability of the schedule of retail rates, catalog, and service guide. . . . exceed[ed] the intended scope of SF 2195.”<sup>15</sup> Consequently, LECs were exempt from nearly all consumer disclosure requirements. GTL, on the other hand, provides information on its refund process in its tariff *and* on its website, the ConnectNetwork website (where consumers are informed of the company’s refund policies when opening an AdvancePay account), its interactive voice response system (which conditions completion of an inmate call on acceptance of GTL’s terms and conditions of service, including its refund policies), and by phone (to customers who contact customer service via a toll-free number). Given the Board’s recognition of the “increasing desire

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<sup>13</sup> Docket No. RMU-2014-0003, *Amendments to Telephone Service Regulations [199 IAC Chapter 22]*, Response to Board Order, 2 (June 20, 2014) (“OCA 2014 Response”).

<sup>14</sup> OCA 2014 Response at 2.

<sup>15</sup> Docket No. RMU-2014-0003, *Amendments to Telephone Service Regulations [199 IAC Chapter 22]*, Order Adopting Rules, 8-9 (Sept. 15, 2015).

to move away from telecommunications regulations in an ever-more competitive marketplace,”<sup>16</sup> it should not perpetuate a wide disparity between AOS providers and other classes of telecommunications service providers by adopting burdensome and unwarranted requirements.

12. In addition, the OCA’s treatment of the Tariff stands in contrast to its treatment of tariffs filed by other AOS companies. Prodigy’s July 28, 2020 revised tariff contained one sentence on refunds for its Prepaid Institutional Calling Services accounts: “Payment for Prepaid Institutional Calling Services and any Available Usage in the Prepaid Account is refundable upon request by the called party.”<sup>17</sup> The OCA did not contest this provision.<sup>18</sup> In its Order Requiring Filing of Revisions to Revised Tariff, dated September 4, 2020, the Board stated it “reviewed this provision,” noting that under it, the prepaid institutional calling services “account balance is refundable upon request by the called party.” The Board subsequently concluded that Section 3.4.1 was “consistent with the services offered by Prodigy” and ordered no changes be made to it.<sup>19</sup> Given that the Board’s approval of this solitary sentence, the OCA’s claim that Sections 3.6 and 3.71 (which each provide for the provision of refunds upon request) is untenable.

13. Finally, with respect to the inclusion of additional provisions concerning refunds in the Tariff, the Board’s recent regulatory revisions are instructive. Prior to 2019, 199 IAC 22.2(5) specified the contents of all tariffs required to be filed with the Board. The rule required that tariffs include “[c]ustomer deposit rules which cover when deposits are required, how the

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<sup>16</sup> Docket No. RMU-2017-0004, *Rule Making Regarding Inmate Calling Rate Caps [199 IAC Chapter 22]*, Order Terminating Rule Making, 5 (Jan. 2, 2019).

<sup>17</sup> Prodigy July 2020 Tariff at 17.

<sup>18</sup> Prodigy OCA Comments.

<sup>19</sup> Prodigy Board Order at 4.

amounts of required deposits are calculated, requests for additional deposits, interest on deposits, records maintained, issuance of receipts to customers, replacement of lost receipts, refunds and unclaimed deposit disposition.”<sup>20</sup> In 2019, the Board requested comment on potential changes to Iowa Administrative Code Chapter 22, pursuant to recent legislative and administrative deregulatory initiatives. Specifically, it “ask[ed] stakeholders to address whether subrules 22.2(3) – 22.2(5) should be amended and, if so, if they should be amended to prescribe requirements that apply to both intrastate access tariffs and AOS tariffs or if there should be different rules for the two types of tariffs.”<sup>21</sup> Rather than change these subrules, the Board ultimately “concluded that the best course for addressing rules for the telecommunications industry is for the Board to rescind current chapter 22 rules and propose new rules that retain only those provisions, and any proposed new provisions, that the Board considers necessary under the current provisions of chapter 476 and the deregulated environment.”<sup>22</sup>

14. The new Chapter 22, effective January 22, 2020, “govern[s] the form, contents, and filing of registrations, tariffs, and other documents necessary to carry out the board’s powers and duties.”<sup>23</sup> The rules addressing the contents of tariffs filed by “alternative operator service companies and telecommunications service providers offering intrastate access” lack any reference to refunds or the treatment of unclaimed deposits.<sup>24</sup> Given this deliberate change

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<sup>20</sup> 199 IAC 22.2(5)(q) (2018).

<sup>21</sup> Docket No. RMU-2018-0022, *Service Supplied by Telephone Utilities [199 IAC Chapter 22]*, Order Requesting Stakeholder Comment, 7 (Feb. 7, 2019).

<sup>22</sup> Docket No. RMU-2018-0022, *Service Supplied by Telephone Utilities [199 IAC Chapter 22]*, Order Commencing Rule Making, 3 (Apr. 19, 2019).

<sup>23</sup> 199 IAC 22.2(1).

<sup>24</sup> 199 IAC 22.2(2); *see* Docket No. RMU-2018-0022, *Service Supplied by Telephone Utilities [199 IAC Chapter 22]*, Order Adopting Rules (Nov. 27, 2019).



within the context of the Board’s rulemaking proceeding, it is manifestly clear that the detailed refund requirements sought by the OCA are not “necessary under the current provisions of chapter 476 and the deregulated environment.”

15. OCA’s position is further undermined by the inconsistent positions it has taken on this issue. In the Prodigy docket, for example, Prodigy, in its further revised tariff of October 5, 2020, amended Section 3.4.1 to provide that “[t]he Available Usage Balance expires six months from the date the last call is made on the Prepaid account. No refunds of unused balances will be issued after the expiration date.”<sup>25</sup> Prodigy thus added the very sort of “forfeiture” OCA (erroneously) attributes to GTL – a date certain on which Prodigy customers would forfeit their account balances. The OCA nonetheless endorsed this further revised tariff in its entirety in its Comments of October 8, 2020.

16. As demonstrated above, GTL’s refund policy, which affords customers a variety of means to obtain refunds of account balances that do not expire, is markedly more consumer-friendly than Prodigy’s; GTL also designed and implemented this policy independently, exclusive of any directive from the Board. Yet OCA continues to demand that GTL be held to a far more onerous standard (on seemingly arbitrary grounds) than its competitors. Given the Board’s aforementioned interest in consistent and equitable regulation amongst AOS companies, it should squarely reject OCA’s position as factually unsupported and comparatively capricious.

### **CONCLUSION**

WHEREFORE, GTL respectfully requests that the Board expeditiously approve the Tariff, pursuant to its responses to the Comments as set forth above.

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<sup>25</sup> Prodigy October 2020 Tariff at 17.

Respectfully submitted,

**GLOBAL TEL\*LINK CORPORATION  
PUBLIC COMMUNICATIONS SERVICES, INC.**

*/s/ John C. Pietila*

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John C. Pietila (AT 0006221)  
Davis, Brown, Koehn, Shors & Roberts, P.C.  
4201 Westown Pkwy, Ste. 300  
West Des Moines, Iowa 50266  
JohnPietila@davisbrownlaw.com  
(515) 246-7871

Chérie R. Kiser (admitted *pro hac vice*)  
Cahill Gordon & Reindel LLP  
1990 K Street, N.W., Ste. 950  
Washington, D.C. 20006  
[ckiser@cahill.com](mailto:ckiser@cahill.com)  
(202) 862-8950

Its Attorneys

Dated: October 20, 2020

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 20th day of October 2020, he had the foregoing document electronically filed with the Iowa Utilities Board using the Electronic Filing System, which will send notification of such filing (electronically) to the appropriate persons.

*/s/ John C. Pietila* \_\_\_\_\_