

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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

**ORDER REQUIRING FILING OF REVISIONS TO REVISED TARIFF AND DENYING
CONFIDENTIAL TREATMENT**

PROCEDURAL BACKGROUND

On August 20, 2020, the Utilities Board (Board) issued an order requiring Global Tel*Link Corporation (GTL) to file additional revisions to its revised tariff, filed on July 23, 2020. On September 21, 2020, GTL filed the required revised tariff. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Prison Policy Initiative, Inc. (PPI); and Securus Technologies, Inc., are parties to this docket.

On September 30, 2020, OCA filed comments addressing certain provisions of the revised tariff. On October 5, 2020, PPI filed comments regarding GTL's revised tariff. GTL filed responses to OCA and PPI's comments on October 20 and October 26, 2020, respectively. On October 29, 2020, PPI filed a reply to GTL's October 26, 2020 response. On October 30, 2020, OCA filed a reply to GTL's October 20, 2020 comments.

ANALYSIS OF SEPTEMBER 21, 2020 REVISED TARIFF

Based upon a review of the September 21, 2020 revised tariff and comments received from the parties, the Board is issuing this order, which requires further

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revisions to the revised tariff. OCA and PPI's comments are addressed in the relevant sections. The Board addresses only those revisions where the Board still has questions or issues and in areas where OCA and PPI made comments.

A. Original Page 14. OCA asserts that section 2.10.4 does not provide the clarity required by the Board's August 20, 2020 order. OCA states that the section is ambiguous as to whether the section, which includes language about blocking calls, applies only to bail bondsmen or to all calls. OCA also suggests that GTL establish a standard for a predetermined amount, which if exceeded, will allow GTL to block calls to bail bondsman numbers.

In its response, GTL states section 2.10.4 only applies to calls from inmates to bail bondsmen, that "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," and that "[b]ecause 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 [Board's] Order."

OCA's reply comments filed on October 30, 2020, reiterate OCA's prior comments about section 2.10.4 lacking clarity on whether the section applies to all inmate calls or only those between inmates and bail bondsmen. Further, OCA asserts the language about blocking calls is also not limited to calls strictly to bail bondsmen, but to "certain telephone numbers." OCA suggests that if the blocking is only for bail bondsmen, the tariff should state that information. OCA also reasserts that GTL should

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be able to articulate “a standard or set criteria for how a predetermined amount is determined.”

In the August 20, 2020 order, the Board required GTL to revise the language within section 2.10.4 to ensure the language clearly states that the provision applies to calls to bail bondsmen. GTL revised its tariff to state “calls placed directly by inmates to bail bondsmen.” Further, revised section 2.10.4 establishes the reasons that calls may be blocked, which are the amount charged to a specific number exceeds a predetermined amount or a balance is past due.

The Board has determined the new language within section 2.10.4 does reference the part of the provision that applies to inmate calls to bail bondsmen, but that information alone does not provide the requisite clarity for the whole of section 2.10.4. GTL will be required to revise the language within section 2.10.4 to ensure it is clear the whole section only applies to inmates calling bail bondsmen. The Board has determined that the call blocking is for a limited number of calls to bail bondsmen and the tariff is clear on this limitation; GTL does not have to provide the standard or factors used to determine when calls to bail bondsmen will be blocked.

B. Original Page 15. In section 2.11, OCA suggests adding clarifying language that ensures taxes will be assessed for intrastate calls in the same manner as for interstate calls. Additionally, OCA states that the reference to federal Universal Fund Surcharge should be deleted or language should be added clarifying that the federal Universal Fund Surcharge applies only to interstate calls. Lastly, OCA

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provides, “GTL should 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.” PPI filed comments joining OCA’s comments, stating there is nothing in the revised tariff prohibiting GTL from marking up taxes and fees.

In response, GTL “questions why it is being subjected to more onerous tariffing requirements than its competitors,” asserting that its competitors have filed and received approval for tariffs without this requirement. GTL states OCA did not provide any legal or regulatory basis for requiring the additional language. Further, GTL’s response to PPI’s comments reiterates reply comments filed regarding OCA’s comments and states the revised tariff denotes which taxes and fees GTL assesses customers.

In its October 30, 2020 filing, OCA reasserts its comments filed on September 30, 2020, that state section 2.11 refers to the federal Universal Fund Surcharge, which only applies to interstate calls. OCA suggests this reference be removed or that GTL include a statement stating the federal Universal Fund Surcharge does not apply to intrastate calls.

With regard to taxes and fees that are allowed to be charged, the Board has approved language within other inmate calling service tariffs, stating: “The billing of taxes on intrastate calls will be in accordance with the same restrictions as are required by the Federal Communications Commission rules for interstate calls.” GTL will be required to include this language within the tariff. In addition, GTL will be required to

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clarify when and what taxes and fees are assessed at the time of deposit into the account.

In addition, GTL will be required to remove the reference to the federal Universal Fund Surcharge or add a statement that the federal Universal Fund Surcharge does not apply to intrastate calls.

C. Original Pages 32 and 34. OCA states sections 3.6 and 3.7.1 do not provide whether an inmate is informed of the need to request a refund, which would help avoid a forfeiture of the funds. PPI joins OCA in comments about inmate refunds and more specifically states: “PPI would support a requirement that all inmate calling service tariffs must specify that customer prepaid funds are ‘utility deposits’ for purposes of Iowa Code § 556.4.”

GTL states that “it believes that mandated representations concerning customer notifications or prescribed means of issuing refunds are outside the scope of the tariffing process” and “[t]hese general requirements, and the Board’s prevailing public interest standard, do not contemplate an exhaustive recounting of or control over a regulated entity’s operational decisions and business functions.” GTL resists PPI’s recommendations and states the Board has already discussed PPI’s concerns and dismissed them. Further, GTL states rules regarding deposits were specifically addressed for electric companies, water companies, and sanitary sewage utilities as Board rules were drafted; however, alternative operator services (AOS) companies were not included in Board rules for these mandates.

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In its October 30, 2020 reply comments, OCA reasserts the tariff should state that an account holder is notified of an unused balance. In response to GTL's statement that a forfeiture does not occur because an account holder may ask for a refund or reactivate the card at any time, OCA states that practice does not benefit the account holder who does not know an unused balance remains.

The Board agrees with OCA that forfeiture of unused balances should be avoided whenever possible. The Board is reviewing the refund provisions in all inmate calling service tariffs to make sure that account holders and inmates are given notice of how and when to request a refund. To address this issue, GTL will be required to add a provision that explicitly states when and how the inmate or account holder shall be notified about the requirement to affirmatively request a refund. The Board does not consider the forfeiture rules in Iowa Code § 556.4 for utility accounts to be necessary. The Board finds that its authority over inmate calling service companies includes authority to establish requirements regarding notice of refunds.

D. Original Page 33. If GTL discontinues service to a correctional facility, or provides service to a new correctional facility, then GTL will be required to file a revised tariff with that information.

E. Original Page 35. PPI asserts GTL has been charging \$4.63 for a \$50 deposit despite GTL's proposed tariff stating that there is "a fee of not more than \$3 for 'payments made by interactive voice response (IVR), web, or kiosk.'" PPI suggests the Board require GTL to refund any amount above \$3.

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GTL asserts that the amount charged is within FCC regulations and its tariff.

GTL states it abides by the \$3 automated payment fee cap, but the additional amount charged is allowed by section 3.8.4 as a third-party financial transaction fee.

On October 29, 2020, PPI filed additional comments in response to GTL's assessment of ancillary fees. PPI asserts that GTL's fee structure does not align with federal law and is not clearly stated to show the amount of fees that may be charged for an account deposit. PPI also asserts that the \$3 automated payment fee must include the credit card processing fee. Additionally, PPI asserts that when a customer deposits money via an AOS provider's website, a third party is not involved. PPI states the customer's card issuer and GTL's acquiring bank are agents, not a separate third party.

The Board has reviewed the issue regarding ancillary fees and whether an AOS provider can charge both the \$3 fee and a corresponding third-party transaction fee. The Board has determined that an AOS provider can charge both the \$3 fee for specified ancillary services and a corresponding credit card processing fee, as long as those fees are provided for in the tariff and are fees charged by a third-party company that are passed through without markup. In addition to the approved ancillary service fees, GTL will be required to include the following language in its tariff that explicitly states that there is no markup to the credit card fees charged by third-party companies, or a markup of any transaction fee charged by a third-party company: "Third-party transaction fees, including credit card processing fees, shall be passed through to

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customers with no markup. The Company receives no payment from a third-party vendor's transaction fees."

F. The Board has verified that GTL is currently up to date with its annual report, annual registration, Dual Party Relay Service assessments, and invoice payments.

CONFIDENTIALITY

On June 24, 2019, GTL requested confidential treatment for a number of items, all of which have been addressed, except GTL's request that the number of telephones in each facility be held confidential pursuant to Iowa Code § 22.7(3) and (6). Iowa Code § 22.7(3) states that "[t]rade secrets which are recognized and protected as such by law" may be held as confidential. Iowa Code § 22.7(6) states that "[r]eports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose" may be held confidential. Upon review, the Board finds that the information is already public information and should not be granted confidential treatment because the telephones are accessible either to inmates or the public.

Pursuant to 199 IAC 1.9(6), the Board will allow GTL 14 days to seek appeal of this decision in district court. If an appeal is not sought within 14 days, the number of telephones in each facility will not be held confidential.

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ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. Global Tel*Link Corporation shall file within 30 days of the date of this order revisions to the September 21, 2020 revised tariff that are consistent with this order.

2. Global Tel*Link Corporation shall include the following revisions in the revised tariff:

- a. On Original Page 14, revise language to provide more clarity that the whole section refers only to inmate calls to bail bondsmen.
- b. On Original Page 15, add language to section 2.11 that states, "The billing of taxes on intrastate calls will be in accordance with the same restrictions as are required by the Federal Communications Commission rules for interstate calls."
- c. On Original Pages 32 and 34, include an explicit statement stating the process for when and how an inmate or account holder is notified of the requirement to affirmatively request a refund to avoid forfeiture.
- d. On Original Page 35, add a statement indicating, "Third-party transaction fees, including credit card processing fees, shall be passed through to customers with no markup. The Company receives no payment from a third-party vendor's transaction fees."

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3. Responses to the revisions required in Ordering Clauses 1 and 2 shall be filed within 15 days of the date those revisions are filed.

4. The application for confidential treatment regarding the number of telephones in each facility filed by Global Tel*Link Corporation in Docket No. TF-2019-0039 on June 24, 2019, is denied. The company shall file the number of telephones located at each correctional facility where the company provides inmate calling service.

5. The information for which confidential treatment is denied in Ordering Clause 4 shall be held as confidential for 14 days to allow for an appeal to the district court.

UTILITIES BOARD

Geri Huser Date: 2020.12.11
12:08:19 -06'00'

ATTEST:

Anna Hyatt Date: 2020.12.11
13:23:01 -06'00'

Richard W. Lozier, Date: 2020.12.11
Jr. 12:00:00 -06'00'

Dated at Des Moines, Iowa, this 11th day of December, 2020.