

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

IN RE RELIANCE TELEPHONE OF GRAND FORKS, INC.	DOCKET NO. TF-2019-0026
IN RE PRODIGY SOLUTIONS, INC.	DOCKET NO. TF-2019-0032
IN RE SECURUS TECHNOLOGIES, INC.	DOCKET NO. TF-2019-0033
IN RE ENCARTELE, INC.	DOCKET NO. TF-2019-0270

**OBJECTION OF PRISON POLICY INITIATIVE
TO GLOBAL TEL*LINK'S PETITION FOR INTERVENTION**

Pursuant 199 IAC 7.13(2), the Prison Policy Initiative (“PPI”) respectfully submits this objection to the Petition for Intervention (the “Petition”) filed by Global Tel*Link Corporation and Public Communications Services, Inc. (collectively, “GTL”) in the above captioned proceedings (collectively, the “Tariff Proceedings”) on June 29, 2020.¹

GTL’s Petition is untimely. As a threshold matter, it is necessary to address the one critical issue that the Petition fails to acknowledge: GTL’s attempt to intervene in the Tariff Proceedings is not timely. A petition for intervention must be “filed no later than 20 days following the order setting a procedural schedule.” 199 IAC 7.13(1). In the Tariff Proceedings, the Board issued an order requiring additional review on May 1, 2019, and entered a subsequent order establishing a schedule for future proceedings on May 24, 2019. GTL now seeks to intervene over thirteen months after the Board established a procedural schedule. The Board has previously denied untimely intervention petitions, particularly where the prospective intervenor fails to offer a satisfactory explanation for its delay. *In re ITC Midwest*, IUB Dkt. E-21948, 2011 WL 2176826 (Jun 1, 2011), (denying petition for intervention where petitioner gave no reason

¹ The Petition also seeks intervention in Dockets TF-2019-0030, TF-2019-0031, TF-2019-0036, TF-2019-0037, and TF-2019-0261. Because PPI has not previously intervened in these five proceedings, we limit this filing to the four above-captioned matters.

for not raising issue during earlier phases of proceeding); *In re IES Utils. and Interstate Power Co.*, IUB Dkts. TF-03-180 and TF-03-181, 2004 WL 3369437 (Jan. 29, 2004) (denying petition for intervention filed after Board conducted its review of proposed tariffs). GTL's unexplained delay is enough, by itself, to warrant denial of the Petition.

The Board may grant intervention in a contested case on a discretionary basis. 199 IAC 7.13. The applicable rule cites five factors that the Board will consider when deciding a petition for intervention. *Id.* § 7.13(3). PPI contends that none of the factors weigh in favor of GTL's Petition and therefore the Board should deny the request to intervene.

Factor 1: interest in the subject matter. The Petition states that GTL is concerned with "new criteria for" inmate calling services ("ICS") rates and tariff flexibility. Petition ¶ 9. GTL unquestionably has a strong interest how these issues impact *its own* tariff review (Docket TF-2019-0039). Yet the Petition does not truly explain why GTL has a legitimate interest in these issues vis-à-vis its competitors. In the Petition, and at the June 2 technical conference in GTL's tariff review, GTL attempts to frame its interest as a matter of uniformity. But this argument rings hollow. All ICS carriers in Iowa are governed by the same standard: just and reasonable rates. Iowa Code § 476.8(1). Just because this standard relies on a totality of facts and circumstances, as opposed to a bright-line *per se* rule, does not mean it is not uniform and consistent. Decades of Board precedents and case law have defined the just-and-reasonable standard, and it applies to all ICS carriers equally. That said, PPI would support a broader rulemaking focused on developing certain uniform standards and rules for the ICS industry.² But just because such a rulemaking is not taking place does not mean GTL's untimely attempt to intervene is appropriate. The Board has denied intervention when a petitioner seeks to raise issues in a competitor's proceeding that are better suited to a rulemaking. *In re Natural Gas Co.*,

² There are several areas that PPI believes could benefit from a broader rulemaking. As just one example: based on its comments at the July 2 technical conference, GTL appears to object to the tariff procedure in part because the company does not want to have to seek Board approval of rates for newly-negotiated contracts. PPI would support a streamlined approval process for existing carriers that negotiate a new contract with rates at or below a designated safe-harbor. See [Comments of PPI](#), IUB Dkts. TF-2019-0026, TF-2019-0032, TF-2019-0033, TF-2019-0035, TF-2019-0039, and TF-2019-0040, at 5-7 (Jul. 8, 2019).

IUB Dkt. WRU-96-7-225, 1996 WL 350960 (May 22, 1996) (denying petition to intervene in proceeding on approval of a pilot project because petitioner had no interest in shaping a pilot project of a different utility, and intervenor's broader policy concerns were more appropriate to a rulemaking proceeding). Because GTL has shown no legitimate interest in the subject matter of its competitors' tariff reviews, the first factor weighs against granting the Petition.

Factor 2: effect of a Board decision on petitioner's interest. GTL asserts that "[t]o the extent that individual AOS companies are afforded undue regulatory advantages, GTL could find itself at a substantial (and artificial) competitive disadvantage." Petition ¶ 10. Obviously, as a function of the marketplace, GTL has an interest in the rates charged by its competitors. But the Board's rules clearly contemplate that intervenors must have a more concrete interest. *See In re Interstate Power & Light Co. and FPL Energy Duane Arnold*, IUB Dkt. SPU-05-15, 2005 WL 3624056 (Sep. 6, 2005) (denying petition for intervention by potential future customer of applicant, finding that such a speculative connection did not constitute an interest in the proceeding); *In re US West Commcn's*, IUB Dkt. INU-00-2 and SPU-00-11, 2002 WL 35070595 (Jun. 11, 2002) (denying late-filed petition for intervention by competitor of the subject company).

Factor 3: representation of petitioner's interest. PPI concedes that the existing parties to the Tariff Proceedings will likely not advocate for GTL's interests. At the same time, it is noteworthy that no other ICS carrier has attempted to intervene in the Board's review of competitors' tariffs. Indeed, the Petition itself states that "[f]ilings to date in each of these dockets demonstrates a close focus on the apparent shortcomings of or omissions in individual tariff provisions, rather than more global concerns." Petition ¶ 11. Precisely because the proceedings are focused on the specific issues relevant to each company, GTL has no bona fide interest in the Tariff Proceedings and it should not be allowed to intervene at this late date for the purpose of changing the procedure that the Board has spent over a year establishing. GTL's status as the lone ICS carrier seeking intervention in all tariff reviews bespeaks the lack of merit in its argument.

Factor 4: alternative means to protect petitioner's interest. GTL characterizes its interest as "industry-wide." Petition ¶ 12. This indicates that GTL's broad interests are best raised in a petition for rulemaking. *See* 199 IAC 3.3(1).

Factor 5: evidence of petitioner's ability to assist the Board. The final factor under the applicable rule asks whether "the prospective intervenor's participation may reasonably be expected to assist in the development of a sound record through presentation of relevant evidence and argument." 199 IAC 7.13(3)(e). Any hope that GTL would constructively participate in the Board's review of the ICS industry was laid to rest at the July 2 technical conference in Docket TF-2019-0039. At that conference, GTL presented its talking points, but when interested parties raised questions about GTL's policies and practices, the company's representatives simply refused to answer.³ This behavior flatly contradicts any expectation that GTL will assist the Board in conducting a worthwhile review of tariffs.

Conclusion. For the reasons stated above, PPI objects to GTL's request to intervene in the Tariff Proceedings.

Dated: July 6, 2020

Respectfully submitted,

PRISON POLICY INITIATIVE, INC.

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³ At the technical conference, GTL's counsel indicated that the company would file supplemental comments responding to the Office of Consumer Advocate's most recent filing. GTL did not commit to answering any interested party's factual questions as part of its forthcoming filing, but PPI holds out hope that GTL will do so as an indication that it is acting in good faith. Nonetheless, because GTL has not filed its response by the deadline for PPI to respond to the Petition, we have no idea whether GTL will help develop the record in Docket TF-2019-0039, or whether it will continue deflecting and stonewalling.