

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

May 17, 2004

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IN RE PETITION OF GLOBAL TEL*LINK
FOR EXPEDITED DECLARATORY RULING

) Docket No 04-00144
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PETITION OF GLOBAL TEL*LINK FOR EXPEDITED DECLARATORY RULING

Global Tel*Link Corporation ("Global Tel*Link") submits the following Petition requesting that the Tennessee Regulatory Authority ("TRA") issue an expedited declaratory ruling, pursuant to T C A § 4-5-225, concerning rates proposed by Global Tel*Link for local, payphone calls made by inmates at correctional facilities¹ Specifically, Global Tel*Link asks that the TRA declare that the amended tariff filed by Global Tel*Link on May 7, 2004 is not prohibited by TRA Rule 1220-4-2- 45(2) and that the tariff is consistent with the rate restrictions placed on inmate service found in BellSouth's payphone access line tariffs

SUMMARY

Global Tel*Link, a certified provider of payphone services, has filed a tariff to increase the rate for making a local call from a payphone in a correctional facility The new tariff, among other things, increases the rate for the call itself from a flat rate of \$ 50 (for a call that is typically limited by the institution to a fixed number of minutes), to a rate of \$ 50 per minute. The new charge is a market-based rate and will give the company more flexibility in bidding for contracts to serve correctional facilities The higher rate, in the view of Global Tel*Link, is necessary for the company to be able compete with other providers of inmate payphone services

¹ An expedited ruling is necessary because the bidding for contracts in Memphis is expected to occur within the next thirty days

The Authority's rules on payphone service, enacted in 1990, state that a competitive payphone provider, such as Global Tel*Link, can charge no more for a local payphone call than the "amount authorized" by the agency "for a local call made from pay telephones operated by the LEC [local exchange carrier]" serving that area

Seven years after the Authority's payphone rules were enacted, the Federal Communications Commission deregulated rates for making a local call from a public payphone. As a result, there are no longer any tariffed, TRA-authorized rates for such calls. For example, although BellSouth has recently withdrawn altogether from the payphone business, its tariff still reads as it did after the FCC deregulated local calling rates. The tariff shows no rate but explains that the price charged for such a local payphone call is "market based." The TRA approved that tariff language.

As it is now written, the TRA's payphone rate cap rule is no longer enforceable. It is tied to LEC rates that no longer exist. Because the existing rule is now effectively moot, the TRA should declare that the rule does not prohibit Global Tel*Link's proposed increase in the local calling rate.

Furthermore, Global Tel*Link's proposed tariff is also consistent with the rate restrictions found in BellSouth's tariffs for payphone access lines. Global Tel*Link's tariff mirrors both BellSouth's intraLata toll rates and BellSouth's operator surcharge of \$.50 applicable to collect calls made by inmates.

DISCUSSION

Global Tel*Link is a certified provider of payphone services at local and state correctional facilities in Tennessee. The company currently provides service to the Tennessee Department of Corrections and to numerous city and county jails across the state.

The TRA's payphone rules, enacted shortly after the agency first allowed private owners of payphones to compete with the payphones of incumbent local exchange carriers, cap the rates which a competitive provider may charge for a local payphone call. The Agency thought at the time that, without such a cap, a payphone provider might charge an excessive rate, and individuals dependent upon payphone service, or who needed to make an emergency call, could be harmed. Therefore, the agency issued a rule declaring that a competing provider could charge no more for a local payphone call than the incumbent LEC in that area would charge for the same call made on a LEC-owned payphone. Since the agency at that time regulated the payphone rates of incumbent carriers, the rule allowed the agency also to regulate, indirectly, the local calling rates of competitive payphone providers.

The rate cap rule does not specifically address local calls made from payphones located in correctional facilities. The agency, however, interpreted the rule to mean that a competitive provider offering service in a correctional facility could charge no more for a local call made by an inmate than if the inmate were making the call on a LEC-owned payphone in that facility. By interpreting the rule in this fashion, the agency was able to regulate, not only the cost of making the call but also the applicable operator surcharge. (Since all inmate calls are collect calls, the inmate has to pay both the cost of the call and an operator surcharge.) The TRA set caps on each charge at, in the words of the rule, "the amount authorized by the TPSC [predecessor of the TRA] for a local call from pay telephones operated by the LEC [local exchange carrier] serving the area in which the pay telephone is located." TRA Rule 1220-4-2-.45(2). The rate cap rule as it has been lately applied, puts a limit of \$1.00 on local payphone calls from correctional facilities: \$.50 for the cost of the call, which is now the typical price for a local call from a LEC-owned payphone, and \$.50 for the operator surcharge, which is the TRA-authorized rate, found in the LECs' tariffs, applicable to a collect, local call from a correctional facility. (The operator

surcharge on inmate calls is much less than the surcharge applicable to the same call made from a public payphone)

Following passage of the 1996 Federal Telecommunications Act, the Federal Communications Commission was charged with insuring that “all payphone service providers are fairly compensated for each and every completed intrastate and interstate call” 47 U.S.C.A. 276(b)(1)(A). The FCC decided that the most effective way to accomplish that goal was to deregulate the rates charged for local calls made from public payphones. See Illinois Public Telecommunications Association v. FCC, 117 F.3d 555 (D.C. Cir. 1997).

Because of the FCC’s decision, local exchange carriers began to amend or withdraw their state tariffs for local payphone calls. As that occurred, the TRA’s rate cap rule—or at least that part that applied to the cost of a local call—became unenforceable. Since there are no longer any TRA-authorized rates for local payphone calls found in the pages of the LECs’ tariffs, there is no longer any basis for comparison between LEC rates and rates charged by competitive payphone providers. Unless and until the TRA enacts a new rate cap rule, Global Tel*Link, like BellSouth, can legally charge a “market based” rate for a local payphone call.

There is one other issue which Global Tel*Link would like the Authority to address in this proceeding. In many cases, Global Tel*Link leases payphone access lines from BellSouth in order to serve correctional facilities. BellSouth (and perhaps other incumbent carriers) has restrictions in its tariffs on the use of BellSouth payphone access lines to serve correctional facilities. Any competing payphone provider using a BellSouth access line to provide service to inmates is bound by those restrictions. Global Tel*Link believes, and asks that the Authority declare, that the proposed tariff is consistent with those restrictions.

There is a specific category of payphone access lines, described in Section A7.4.7 of BellSouth’s tariffs, applicable to payphones serving inmate facilities. Sub-section C of this

tariff states that inmate payphone providers subscribing to BellSouth's access line may not change end users more than "the amounts specified in A7 4 5 B for local messages" The same tariff also states that rates for "long distance" calls are not to exceed "charges specified in A18. of this Tariff," which sets forth BellSouth's intra-LATA toll rates Finally, the tariff section on local operator assistance, Section A3 14 3(B), states that BellSouth charges a \$ 50 surcharge for each "completed," station-to-station, local collect call made from a correctional facility

On May 7, 2004, Global Tel*Link filed a revised tariff applicable to payphone calls from correctional facilities A copy of the tariff is attached The tariff mirrors the rates of BellSouth for intra-LATA toll charges and mirrors BellSouth's \$ 50 surcharge for local, collect, station-to-station calls BellSouth, however, no longer has a local message charge in Section A7 4 5.B of the tariff That section is labeled as "Local End User Message Charge" but includes no rates Instead, there is a footnote which reads in full

Note 1 Pursuant to the Federal Communications Commission's Report and Order and Order on Reconsideration in CC Docket No 96-128, the local rate charge to end users is market based as of October 7, 1997.

Since there is no longer a BellSouth local message payphone rate in this section of the tariff and the proposed tariff of Global Tel*Link mirrors BellSouth's intraLATA toll rates and BellSouth's operator surcharge rate, the proposed tariff filed does not conflict with any of the restrictions in BellSouth's tariffs.

CONCLUSION

As a result of the 1996 federal Telecommunications Act, 47 U.S.C.A. § 276, the FCC has deregulated the rates charged for most payphone calls For that reason, incumbent local exchange carriers have withdrawn or amended their payphone tariffs to eliminate the charge for a local call The TRA's existing rate cap rule is no longer enforceable and, therefore, no longer

prohibits Global Tel*Link's from charging a market based rate for a local call made from a correctional facility. Moreover, the proposed tariff is also consistent with the restrictions on inmate service found in BellSouth's payphone access line tariff.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By Henry Walker KG
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Attachment



May 6, 2004

VIA OVERNIGHT MAIL

Ms. Patsy Fulton
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: Global Tel*Link Corporation Tariff Revision

Dear Ms. Fulton:

Enclosed please find an original and three copies of the tariff revision of Global Tel*Link Corporation. This revision consists of Third Revised Page 4.1. This filing increases our local collect calling rates to mirror current collect tariffs on file with the TRA by other inmate telecommunications providers.

Please acknowledge receipt of this filing by returning a date stamped copy of this tariff filing in the self-addressed, stamped envelope I have prepared.

If you have any questions, please do not hesitate to contact me at 1-800-489-4500 ext. 2215 or via e-mail at lgaston@gtl.net. Thank you for your consideration.

Sincerely,



Lynda Gaston
Regulatory & Legal Analyst

Local Rates:

Station-to-Station

(a)	Usage Rate - Per Minute	\$0.50
(b)	Service Charge - Per Call	\$0.50

Person-to-Person

(a)	Usage Rate - Per Minute	\$0.50
(b)	Service Charge - Per Call	\$4.90

IntraLATA Rates:

Station-to-Station

(a)	Service Charge	\$0.50
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Person-to-Person

(a)	Service Charge	\$3.00
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Per Minute Charges:

	<u>Initial Minute</u>	<u>Additional Minutes</u>
(a) 1-10 miles	\$0.10	\$0.10
(b) 11-16	\$0.10	\$0.10
(c) 17-22	\$0.15	\$0.15
(d) 23-30	\$0.15	\$0.15
(e) 31-40	\$0.19	\$0.19
(f) 41-55	\$0.21	\$0.21
(g) 56 +	\$0.21	\$0.21

Issued: May 6, 2004

Effective: June 7, 2004

By: Craig Ferguson, President