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VIA UPS OVERNIGHT

December 6, 2007

Walter L. Thomas Jr.
 Secretary
 Alabama Public Service Commission
 100 N. Union St.
 RSA Union
 Suite 850
 Montgomery AL 36130
 (334) 242 5200

Re: Applicability of Communications Act of 2005 to Inmate Phone Service

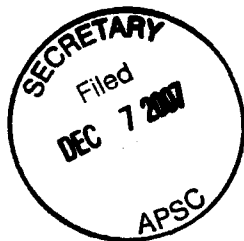
Dear Mr. Thomas:

Enclosed please find the original signed and ten copies of Global Tel Link Corporation's ("GTL") comments regarding the Commission's proceeding to determine the applicability of the Communications Act of 2005 to inmate phone service, Docket 302632.

GTL respectfully requests that the Commission return a date-stamped copy of this transmittal Letter, a copy of which is included, in the return overnight delivery envelope provided.

Sincerely yours,

Dorothy E. Cukier



UPS

INTEGRITY

INNOVATION

RESPONSIVENESS

ACCOUNTABILITY

**Before the
STATE OF ALABAMA
Alabama Public Service Commission
Montgomery, Alabama 36130-4260**

In the Matter of)	
)	
Generic Proceeding to Determine)	
Applicability of the)	
Communications Reform Act of 2005)	Docket 30632
To Inmate Phone Service)	
)	

COMMENTS OF GLOBAL TEL*LINK CORPORATION

Global Tel*Link Corporation (“GTL”), by its counsel, hereby respectfully submits these comments in response to the Order, released by the Alabama Public Service Commission (“PSC” or “Commission”), effective November 6, 2007, to consider whether there is sufficient competition in the provision of inmate phone services (“IPS”) to warrant the elimination of Commission jurisdiction over IPS pricing. GTL maintains that the combination of rigorous intra-industry competition for IPS contracts and the strictures of those contracts themselves is more than adequate to ensure that IPS providers implement calling rates that are fair and reasonable to inmates and their friends and families, such that IPS providers should be permitted to elect to operate under the Communications Reform Act of 2005 (the “Act”).¹

¹ Communications Reform Act of 2005, Title 37, Code of Alabama, Chapter 2A (2005) (the “Act”).

BACKGROUND

GTL is a leading provider of IPS and telecommunications equipment for correctional facilities throughout the United States, and has served this unique market since 1989. GTL serves all types of correctional facilities, ranging from municipal and county jails that house fewer than ten inmates to state correctional departments that incarcerate tens of thousands of inmates. GTL's facility customers include state-run and privately-managed institutions, and range from minimum-security to maximum-security facilities.

GTL has developed patented products and services that have significantly increased security and reliability for prison administrators and correctional officers while enhancing inmate access to telephones. The company offers a wide variety of products, support and maintenance services, calling options, and billing and payment platforms to meet the varied needs of its diverse customer base.

Inmate telecommunications systems have a unique architecture designed to reflect the specialized security needs of the correctional setting. GTL invests substantial capital in the design, installation and management of sophisticated data and voice transmission networks and its proprietary software platform to provide the security features required by prisons. For example, this platform prevents inmates from engaging in three-way calling or repetitive dialing of a blocked phone number, and is capable of blocking inmate call attempts to judges, prosecutors, jurors and witnesses involved in legal proceedings, among others. This software platform also provides call monitoring and recording features, and sophisticated call tracking capability that enables law enforcement authorities to assemble data on criminal gang structures gleaned from

detected calling patterns. GTL supplies durable telephone receivers to minimize maintenance costs for prisons, and it employs a web portal to enable remote access to security-related information. The company also works closely with prisons to install these software and equipment solutions in a way that minimizes the costs and security risks associated with providing telephone services to inmates.

While GTL has an excellent reputation in the IPS industry as a result of its superior, proprietary technology and service, it is not alone in the provisioning of IPS, and in fact, competes each and every day with the other businesses providing these unique products and services to the corrections field.

I. DISCUSSION

A. IPS PROVIDERS ARE ENTITLED TO LIMITED COMMISSION JURISDICTION UNDER THE ACT

1. IPS Agreements with Correctional Facilities Are “Contract Offerings” as Such Is Defined by the Act

The Commission argues that, in order for a telecommunications provider to be exempt from Commission oversight under the Act, it must be a party to a contract offering,² which the Act defines as:

Any retail contractual agreement, whether or not memorialized in writing, by which a local exchange carrier or inter-exchange carrier offers any communications service to any existing customer or potential customer.³

The Commission states that IPS “do not fall within the provisions of a ‘contractual agreement’ with the ‘existing customer or potential customer’ because no such agreement

² *In re* Generic Proceeding to Determine Applicability of the Communications Reform Act of 2005 to Inmate Phone Service, *Order*, Docket 30632, Nov. 6, 2007, at 2 (the “Order”).

³ Act, 37-2A-2(6).

exists.”⁴ In reaching the determination that the contracts between IPS providers and correctional facilities are not “contract offerings” or “contractual agreements” as contemplated by the Act, the Commission draws two erroneous conclusions.

First, the Commission states that the correctional facility with which an IPS provider has a contract is neither a user of the services nor a customer, but is instead merely a recipient of a “location fee” that allows for placement by the IPS provider of telephone instrumentation.⁵ In fact, the correctional facility is both a user of the services and a customer. The provision of a telephone connection from inside a correctional facility to the public switched telephone network is only one piece of the service offered by IPS providers. The myriad of security features and call tracking and monitoring features are services provided to correctional facilities that aid in the detection of criminal activity and protect the health and welfare of the public.

Correctional facilities are also customers of IPS providers, with their own set of unique demands and requirements for the type of products and services that IPS providers design and offer to the industry. As customers, correctional facilities assess and measure the various offerings IPS providers bring to market, and make choices with respect to which ISP provider will be selected to service a facility and what that IPS provider must demonstrate over the course of a contract term in order to sustain the business.

The Commission also mistakenly states that inmates who use IPS, while users of the “facilities,” are not really users of the service, because “inmates are not billed for the services because the calls are collect only.”⁶ There are many correctional facilities that elect to have the IPS provide debit calling cards directly to inmates, who can purchase the

⁴ Order at 2.

⁵ *Id.*

⁶ *Id.*

cards at the facility's commissary, and pay for outgoing calls with their own money, as opposed to having the calls billed to the called party.

IPS providers do engage with correctional facilities in the type of contractual relationship intended by the Act. The fact that there is no written contract between an IPS provider and the ultimate called party is by design, insofar as the strictures of the correctional field require that the IPS provider serve first and foremost the requirements of the correctional facility.

2. The Fact that IPS Providers can not, by Design, Offer Service Directly to the General Public Like Common Carriers Should not Be Fatal to Its Exemption from Commission Jurisdiction

The Commission is correct that IPS is not a service available directly to the public.⁷ The called-party market for IPS is comprised of those individuals with a need or desire to speak with an incarcerated individual. Within this stratum of the public is a smaller subset comprised of those individuals to whom correctional facilities have granted inmates the privilege of calling, insofar as inmates are required to submit for pre-approval a set number of individuals to whom they would like to place calls.

To penalize IPS providers for not being able to serve as common carriers is unjust. IPS providers must comply with the restrictions imposed upon them by their customers, which, in turn, must ensure that their own guidelines, and those of the state, and nation, are carefully followed, for the protection of the public at large. It must be borne in mind that ability of an inmate to make a phone call to a friend or family member is a privilege, not a right. The carefully defined called-party market served by IPS

⁷ *Id. at 3.*

providers is an imposition that must be heeded, not a business decision made by the IPS provider.

Despite the fact that IPS providers serve a subset of the public, their attention to service detail and called-party satisfaction is as ardent as those of their colleagues in the common carrier business; probably more so. Common carriers have a vast group of consumers from whom they can potentially collect revenue. IPS providers have a very defined group of consumers from whom they can collect revenue. The threat of losing a hard-won contract to serve this small group of consumers creates an operating environment that dictates the provision of excellent service at fair and reasonable rates.

3. The IPS Industry Meets the Act's Requirements Regarding Multiple Competitors and Market-Based Competitive Forces

The Commission finds that the deregulatory function of the Act derives from the presupposed existence of “multiple competitors” and the promotion of “market-based competitive forces.”⁸ The Commission holds that IPS, “as configured and delivered, does not fit within those services now deemed competitive enough by the Legislature to warrant reduced Commission oversight.”⁹ GTL maintains that the opposite is true.

GTL's experience indicates that competition for IPS contracts is robust and rigorous, and IPS providers absolutely must compete with respect to rates. Contracts for the provision of IPS are generally awarded by a public bidding process that commences with the publication of a request for proposal issued by the correctional facility, setting forth the relevant requirements for serving the special needs of the facility and the called

⁸ *Id.* at 4.

⁹ *Id.*

parties. It is typical for more than five IPS providers to submit bids. As part of the bidding process, correctional facilities typically demand the submission of itemized rate-structure proposals from bidders with the challenge of meeting the revenue requirements of the facility while minimizing the rates imposed on called parties. This standard bidding requirement applies in states that regulate IPS by tariff, and in states where IPS has been deregulated. IPS providers compete vigorously with respect to rates, and winning bids generally are those that include the lowest overall rate structures, inclusive of facility commissions. While only one IPS provider can be selected to provide the IPS for a given facility, the term of that service provision is limited, usually by statute, following which the contract is re-offered for a new bid that permits the competitors in the industry to vie for the next contract. Additionally, every IPS contract contains strict breach and termination provisions that hold the IPS provider to the highest standards of service provision at the risk of having the contract terminated and re-awarded to another competitor.

B. STATE REGULATION OF INMATE CALLING SERVICES IS UNNECESSARY AND DETRIMENTAL TO THE VIABILITY OF THE INDUSTRY

Because it is the desire of correctional facilities to award contracts to IPS providers with the lowest rate structures and the highest qualifications for the provision of service and technology, additional restrictions placed on IPS providers is unnecessary and detrimental to the viability of the industry. Correctional facilities must force the businesses in the IPS industry to compete to meet unique and strict security and crime prevention functions, while affording the friends and families of inmates fair and reasonable call rates. Both the correctional facilities and IPS industry recognize their

fiduciary duty to the called parties, who, by the nature of the phone service and the environment in which it operates, must accept the service of the single IPS provider selected to administer the service for the term of a contract.

The restrictions placed on rate structure by correctional facilities, combined with an ever-increasing demand for more sophisticated security and crime prevention technology and the requirement, in most states, to generate revenue for the facility itself, provide IPS providers with a minimum of leeway to recoup their own expenses in the development and implementation of IPS. The ability of the IPS provider and the correctional facility to negotiate agreements that meet the needs of each party, free from an added layer of regulatory oversight, is critical to the survival of the industry as a whole. As IPS providers find it more and more difficult to fund their businesses and grow to accommodate the demands of the corrections field, it is inevitable that the industry will shrink. As long as correctional facilities determine that the privilege of telephone communications for inmates should exist, a viable business environment for IPS providers must be cultivated. IPS providers and correctional facilities work together in a quasi-public safety role, not only to enable the continuation of the privilege, but to safeguard the public and foil criminal activity. This relationship must be nurtured, not stymied by overly burdensome state regulation.


II. CONCLUSION

The IPS industry, while small, is a critical arm of the telecommunications industry as a whole. It is highly defined, and extremely tightly managed by the correctional facilities that offer the contracts for service.

GTL provides the lowest rates and the highest quality service possible in every state in which it does business. It does not seek to capitalize on states that have deregulated IPS, because GTL's business practices are dictated by the rigors of industry competition for contracts. As such, GTL respectfully requests that the Commission re-evaluate its position on the applicability of the Act to IPS, and find that IPS meets the requirements of operating under the Act, as opposed to being subjected to Commission jurisdiction.

Respectfully submitted,

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Dated: December 6, 2007