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*ADMITTED IN DC ONLY

May 30, 2014

Via Electronic Mail and Federal Express

Catrice C. Williams
Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, Massachusetts 02118

**Re: D.T.C. 11-16, Petition of Recipients of Collect Calls from Prisoners at
Correctional Institutions in Massachusetts**

Dear Secretary Williams:

Global Tel*Link Corporation ("GTL"), by its attorneys, hereby respectfully submits its Motion to Compel Responses to Discovery Requests. Three (3) copies of this submission have been sent to the Hearing Officer, and one copy has been sent to each Department staff member listed on the service list per the Procedural Order issued February 27, 2014.

If you have any questions concerning this matter, please contact the undersigned.

Respectfully submitted,



Chérie R. Kiser

Counsel for Global Tel*Link Corporation

Enclosures

cc: Service List

**Before the
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

**Petition of Recipients of Collect Calls from)
Prisoners at Correctional Institutions in) D.T.C. 11-16
Massachusetts Seeking Relief from the)
Unjust and Unreasonable Cost of such Calls)**

**GLOBAL TEL*LINK CORPORATION'S
MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS**

Pursuant to 220 C.M.R. § 1.06(6)(c)(4) and Mass.R.Civ.P. 37, Global Tel*Link Corporation (“GTL”), by its attorneys, hereby respectfully requests that the Massachusetts Department of Telecommunications and Cable (“Department”) issue an order (1) compelling the twenty-one (21) Petitioners who did not respond to GTL’s First Set of Information Requests to respond within five business days and (2) compelling Petitioner Prisoners’ Legal Services (“PLS”) to produce within five business days certain documents it withheld from its production in response to GTL’s First Set of Information Requests.¹ Pursuant to the February 27, 2014 Procedural Order issued in this proceeding,² GTL conferred with representatives for PLS, which represents all Petitioners, regarding these discovery issues but was unable to obtain the requested discovery. As required by the *Procedural Order*, a certificate setting forth information on the discovery conference is attached hereto as Attachment A. In support of this Motion, GTL states the following:

I. 21 Petitioners Did Not Respond to GTL’s First Set of Information Requests

1. On March 10, 2014, GTL filed and served its First Set of Information Requests to

¹ This Motion is timely filed. On April 18, 2014, the Department issued its Order on Motion for Extension of Time in this proceeding, which set May 30, 2014 as the deadline for discovery motions relating to the first set of discovery to be filed (“*Order on Motion for Extension of Time*”).

² D.T.C. 11-16, *Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in Massachusetts Seeking Relief from the Unjust and Unreasonable cost of Such Calls*, Procedural Order, at 5-6 (Feb. 27, 2014) (“*Procedural Order*”).

Petitioners. A copy of those requests is attached hereto as Attachment B.

2. On April 29, 2014, attorneys for PLS, on behalf of Petitioner PLS and all other Petitioners, responded to those requests. A copy of that response is attached hereto as Attachment C. On page 2 of its response, PLS identified nineteen (19) Petitioners who did not respond to GTL's information requests. PLS stated that it had not received (and therefore did not produce) responses from the following Petitioners:

1. Peter T. Sargent;
2. Louis M. Badwey;
3. Frank D. Camera;
4. John H. Cunha Jr.;
5. John G. Darrell;
6. Michael DiGioia;
7. Gregory DiPaolo;
8. Anne E. Gowen;
9. James S. Murphy;
10. Anne Roche;
11. Frank H. Spillane;
12. Leonardo Alvarez-Savageau;
13. Kenneth Moccio;
14. Shirley Jay MacGee;
15. Samuel Conti;
16. Stephen Metcalf;
17. Marcos Ramos;
18. Christina Rapoza and
19. Gerardo Rosario.

3. During the discovery conference, conducted on May 20 and 22, 2014, counsel for GTL requested that PLS provide the responses from those 19 Petitioners. As of today, no responses have been provided by any of the 19 Petitioners listed in the PLS response.

4. During the same discovery conference, counsel for PLS informed GTL that they intended to withdraw the responses from two additional Petitioners, Shirley Turner and Cheryl Williams, because PLS had inadvertently filed and served those responses without approval from those Petitioners. On May 23, 2014, PLS filed Petitioners' Supplemental Response to GTL's

First Set of Information Requests to Petitioners, officially withdrawing those responses and noting on page 1 that updated responses would be submitted “[i]f and when counsel is able to confirm information directly with these Petitioners.” As of the date of this Motion, no updated responses have been received from those two Petitioners or any of the other 19 listed Petitioners.

5. All told, 21 Petitioners (or roughly 40 percent of all the Petitioners) failed to respond to GTL’s First Set of Information Requests to Petitioners, and counsel for Petitioners has offered no reasonable justification for the Petitioners’ failure to respond or any assurances of when, or even if, responses would be forthcoming.

6. The Code of Massachusetts Regulations states that “[t]he purpose for discovery is to facilitate the hearing process by permitting the parties and the Department to gain access to all relevant information in an efficient and timely manner. Discovery is intended to reduce hearing time, narrow the scope of issues, protect the rights of the parties, and ensure that a complete and accurate record is compiled.” 220 C.M.R. § 1.06(6)(c)(1). The Code further states that “[i]n establishing discovery procedures, the presiding officer must exercise his or her discretion to balance the interests of the parties and ensure that the information necessary to complete the record is produced without unproductive delays.” 220 C.M.R. § 1.06(6)(c)(2). The Petitioners’ failure to respond to GTL’s information requests frustrates this purpose and will serve to further delay this proceeding.

7. Section II(D)(1) of the *Procedural Order* states that “[u]nless otherwise stated in the procedural schedule herein or indicated by the Hearing Officer, parties shall provide responses to Information Requests within five (5) business days of issuance of the request.” That schedule was extended by the discovery schedule in Section I of the *Procedural Order*, as modified by the *Order on Motion for Extension of Time*, giving the parties fifty (50) days to

respond to discovery requests. Nevertheless, 21 Petitioners failed to respond within that time frame or within the additional thirty-one (31) days between the date responses were due (April 29, 2014) and the date of this Motion. These Petitioners should be ordered to respond to GTL's First Set of Information Requests within the originally contemplated five (5) business days.

II. PLS Improperly Withheld Documents from Production to GTL

8. PLS improperly withheld certain documents that it identified as responsive to GTL's request DTC-GTL 1-17, and GTL respectfully urges the Department to issue an order compelling PLS to produce these documents.

9. GTL's request DTC-GTL 1-17 sought "all documents relating to any communications you have had with the Department of Telecommunications and Cable, any Massachusetts correctional facility, any other federal, state, county or local agency or official, including the Federal Communications Commission, relating to telephone calls placed by prisoners or inmates at correctional facilities." Attachment B, p.8.

10. PLS responded in relevant part:

PLS objects insofar as this request seeks information already in the possession of Respondents. PLS also objects on the basis that the request is overly broad and seeks attorney work product. Without waiving this objection, PLS has produced all communications in its possession except for internal e-mails, notes and other documents that are protected as attorney work product and which PLS has identified below.

PLS omits the following correspondence between former staff attorney Brad Brockmann and Michael Isenberg, former Director of the Telecommunications Division of the DTE:

Letter from Brad Brockman to Michael Isenberg dated January 16, 2007

E-mail correspondence between Brad Brockmann and Mike Isenberg dated 10/3/2007 and 10/7/2007

E-mail correspondence between Brad Brockman and Mike Isenberg dated 1/15/2008 and 1/17/2008

E-mail correspondence between Brad Brockman and Mike Isenberg dated 2/26/2007 and 2/29/2008.
Attachment C, p.8.

11. PLS claims that its correspondence with the predecessor to the Department can be withheld as “attorney work product.” PLS is incorrect.

12. The attorney work product doctrine is a limited protection, drawn from the well-known U.S. Supreme Court case of *Hickman v. Taylor*, 329 U.S. 495 (1947). It only applies to documents and things “prepared in anticipation of litigation or for trial” by a party or its representative. Mass.R.Civ.P. 26(b)(3). A party seeking work product protection bears the burden of proving that the doctrine applies. *See, e.g., Colonial Gas Co. v. Aetna Casualty and Surety Co.*, 144 F.R.D. 600, 605 (D. Mass. 1992). In addition to demonstrating that litigation was anticipated at the time the document was created, PLS must demonstrate that the documents were created “because of” existing or expected litigation. *Commissioner of Revenue v. Comcast Corp.*, 453 Mass. 293, 316 (2009). PLS has not even attempted to meet this burden.

13. The only information that PLS provided regarding the letter and e-mail correspondence is that they are dated from January 2007 to February 2008, long before the Petitioners filed their first flawed petition and years before the Department opened a docket in this matter on November 10, 2011. PLS did not offer any proof that these documents were created in anticipation of litigation or what they contain. PLS did not identify how many specific e-mails were contained in the “correspondence” or who authored the e-mails, stating only that they were “between” PLS and the DTE. PLS did not even attempt to explain how correspondence with Michael Isenberg, director of the Telecommunications Division of the Massachusetts Department of Telecommunications and Energy, the predecessor to the

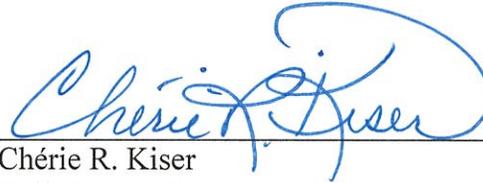
Department of Telecommunications and Cable, from February 1998 to March 2007 and director of the Competition Division of the Department of Telecommunications and Cable from April 2007 to November 2010, could qualify as PLS's work product or how correspondence with the Department did not waive any such claim PLS might have. *See e.g., United States v. Massachusetts Institute of Technology*, 129 F.3d 681, 687 (1st Cir. 1997) ("disclosing material in a way inconsistent with keeping it from an adversary waives work product protection."). As the Supreme Judicial Court has observed: "Voluntary disclosure on the part of [party's] attorney [to counsel and the court], of course, would indicate that she has waived any work-product privilege." *Adoption of Sherry*, 435 Mass. 331, 336 (2001).

14. The *Procedural Order* makes clear that information shared with the Department is presumptively public information, stating a "party seeking [confidential] treatment has the burden to demonstrate that the materials should be afforded the treatment requested in light of the presumption that such information is a public record. Even where a party proves such need for confidential treatment, the Department may protect only so much of that information as is necessary to meet the established need and may limit the term and length of time such protection will be in effect." Section II(D)(2). Similarly, the Massachusetts Public Records Law defines as a public record "all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, *made or received by any officer or employee* of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose" unless the document falls within certain enumerated exceptions that are not applicable here. M.G.L. c. 4 § 7(26) (emphasis added).

15. Because PLS unjustifiably withheld documents that it identified as responsive to GTL's Information Requests and 21 Petitioners completely disregarded their obligations to Respondents and the Department, GTL respectfully requests that the Department grant GTL's Motion to Compel and order Petitioners to comply with GTL's First Set of Information Requests within five (5) business days as originally contemplated by the *Procedural Order*.

Respectfully submitted,

GLOBAL TEL*LINK CORPORATION



Dated: May 30, 2014

Chérie R. Kiser
Gail Johnston*
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Its Attorneys

* Resident in New York

CERTIFICATE OF SERVICE

I, Angela Fleming, certify that on this 30th day of May 2014, I served a copy of the foregoing Motion to Compel Responses to Discovery Requests on the following via the method indicated:

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Email: catrice.williams@state.ma.us
Email: dtcefilng@massmail.state.ma.us
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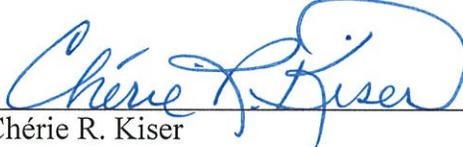
ATTACHMENT A

Global Tel*Link Corporation Motion to Compel
D.T.C. 11-16

CERTIFICATION

I, Chérie R. Kiser, certify that at my request a telephonic discovery conference was conducted at 2 p.m. on May 20, 2014 and resumed at 8:30 a.m. on May 22, 2014 in a good faith effort to narrow areas of disagreement to the fullest extent possible prior to the filing of this Motion to Compel Responses to Discovery Requests. Present on both calls were Bonita Tenneriello, Esq. and Elizabeth Matos, Esq. representing Prisoners' Legal Services and the other Petitioners, and myself and Gail Johnston, Esq., both of Cahill Gordon & Reindel LLP, representing Global Tel*Link Corporation.

Dated: May 30, 2014


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202-862-8900 (telephone)
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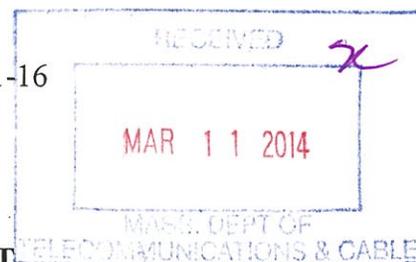
ATTACHMENT B

Global Tel*Link Corporation Motion to Compel
D.T.C. 11-16

**Before the
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Petition of Recipients of Collect Calls From Prisoners
at Correctional Institutions in Massachusetts Seeking
Relief from the Unjust and Unreasonable
Cost of Such Calls

D.T.C. 11-16



**GLOBAL TEL*LINK CORPORATION'S FIRST SET
OF INFORMATION REQUESTS TO PETITIONERS**

Global Tel*Link Corporation (“GTL”), by its attorneys and pursuant to 220 C.M.R. § 1.06(6)(c) and the Procedural Order issued in this proceeding on February 27, 2014 (“Procedural Order”), hereby submits the following First Set of Information Requests to Petitioners. GTL requests that all responses and responsive documents be delivered to counsel for GTL, Chérie R. Kiser, Cahill Gordon & Reindel LLP, 1990 K Street, N.W., Suite 950, Washington, D.C. 20006 no later than the close of business on **April 22, 2014**, in accordance with the Procedural Order.

DEFINITIONS

1. “Petitioner” refers to each and every entity or individual identified in Attachment B to the document entitled “Amendment #2: Additional Petitioners,” dated April 27, 2011 filed in this proceeding. To the extent additional individuals or entities are identified in response to request DTC - GTL 1-1 below, those additional individuals or entities shall be deemed to fall within the definition of “Petitioners” for the purpose of responding to this First Set of Information Requests.

2. “You” or “your” refers to each Petitioner as if such Petitioner were identified by name. For each entity that is a Petitioner, the terms “you” and “your” shall also mean all present

and former officers, directors, agents, employees, partners, parents, subsidiaries, affiliates, divisions, area or regional offices, predecessors-in-interest, attorneys and consultants.

3. “Communication” means any transmittal of information, whether facts, ideas, inquiries, or otherwise, regardless of form, method or medium.

4. “Document” and “documents” are used in their broadest sense to mean all things subject to discovery, including, but not limited to, any writings, drawings, graphs, charts, photographs, phonograph records, tape recordings, notes, diaries, calendars, books, papers, accounts, microfilm, microfiche, computer printouts, e-mail or other electronic documents, correspondence, handwritten notes, records or reports, bills, checks, electronic or videotape recordings, and any computer-generated, computer-stored, or electronically-stored matter from which information can be obtained. All drafts and non-identical copies of documents and electronically stored information are considered to be separate and unique documents and electronically stored information as those terms as used herein.

5. “Including” means including but not limited to.

6. “Relating to” or “in relation to” means relating to, referring to, concerning, describing, pertaining to, evidencing, reflecting, regarding, constituting, involving, or touching upon in any way. Each of these terms may be used interchangeably herein and will be treated as encompassing all these meanings.

INSTRUCTIONS

1. Unless otherwise stated, each Petitioner should answer each request in writing on a separate page including: the case docket number, the request set and question number, the name of the person who will support the response, and a recitation of the request.

2. Requests shall be deemed continuing so as to require further supplemental responses if you locate, receive or generate additional information within the scope of these requests between the time of the original response and the close of the record in this proceeding.

3. Unless otherwise specified, the relevant time period for these responses is January 1, 1998 to the present.

4. In complying with these information requests, you are required to produce all documents described below which are in your possession, custody or control, including those documents in the possession, custody or control of your present or former attorneys, investigators, accountants, financial and investment advisors, placement agents, employees or other agents, as well as any other persons acting on your behalf, wherever located and in whatever form they may exist.

5. A document is deemed to be in your possession or control if it is in your physical custody, or if it is in the physical custody of any other person and you (a) own such document in whole or in part, (b) have a right, by contract, statute, or otherwise to use, inspect, examine or copy such document on any terms, (c) have an understanding, express or implied, that you may use, inspect, examine or copy such document on any terms, or (d) have, as a practical matter, been able to use, inspect, examine or copy such document when you sought to do so.

6. For the purposes of reading, interpreting, or construing the scope of these requests, the terms used shall be given their most expansive and inclusive interpretation.

7. Unless instructed otherwise, each request shall be construed independently and not by reference to any other request for the purpose of limitation.

8. If you are unable to answer or respond fully to any request, answer or respond to the extent possible and specify the reason for your inability to answer or respond in full. If you have no documents responsive to a particular request, so state.

9. Unless otherwise specified, these requests call for both the original of each document and all non-identical copies. An identical copy of the original may be produced in lieu of the original, so long as it is legible and bound or stapled in the same manner as the original.

10. If a portion of a document is responsive to any request, the entire document should be produced.

11. If any requested document cannot be produced in full, produce the document to the extent possible, specifying each reason for your inability to produce the remainder of the document and stating whatever information, knowledge or belief that you have concerning the portion not produced.

12. If any documents are within the scope of any request for production, but are being withheld, in whole or in part, by reasons of any claim of privilege, the attorney asserting the privilege shall identify the nature of the privilege (including work product) which is being claimed and, if the privilege is governed by state law, indicate the state's privilege rule being invoked, and provide the following information:

- a. the type of document, *e.g.*, letter or memorandum;
- b. the general subject matter of the document;
- c. the date of the document; and
- d. such other information as is sufficient to identify the document, including, where appropriate, the author of the document, the addressees of the document, and any other recipients

shown in the document, and, where not apparent, the relationship of the author, addressees, and recipients to each other.

13. If any document responsive to these requests was, but is no longer in your possession or control, state whether it is (a) missing or lost, (b) has been destroyed, (c) has been transferred, voluntarily or involuntarily, to others, or (d) has been otherwise disposed of, and in each instance explain the circumstances surrounding such disposition and state the date or approximate date thereof.

14. Documents produced pursuant to these requests shall be produced as they are kept in the ordinary course of business, including electronically stored information and documents, such as spreadsheets. Electronic documents and data that are electronically searchable should be produced in a form that does not remove or degrade this feature.

15. The fact that a document is produced by another party does not relieve you of the obligation to produce your copy of the same document, even if the two documents are identical.

16. These requests shall not be construed as a waiver or abridgment of, and are not intended to waive, any argument or defense, or any objection to any Petitioner's discovery requests nor shall they be construed as an admission of any fact.

17. If you object to any part of any request, you shall state fully the nature of the objection and shall nonetheless comply fully with the other parts of the request not objected to.

18. In construing the following information requests (a) the singular shall include the plural and the plural shall include the singular; (b) a masculine, feminine, or neuter pronoun shall not exclude the other genders; (c) the past tense includes the present tense unless the clear meaning is distorted by a change of tense; (d) the terms "any" or "all" shall be understood to

mean “any and all”; and (e) the terms “and” and “or” shall be read in the conjunctive or disjunctive or both, such that the request is understood in the most expansive manner.

INFORMATION REQUESTS

DTC - GTL 1-1:

Identify every Petitioner in this action. For each Petitioner that is an entity, provide its physical address, mailing address if different from its physical address, telephone number, and a list of all officers and directors or partners and their titles since January 1, 1998. For each Petitioner who is a natural person, provide that individual’s mailing address(es), place(s) of business, telephone number, and any aliases or other names that person has used since January 1, 1998.

DTC - GTL 1-2:

For each telephone call that you received from, or placed as, a prisoner or inmate in a Massachusetts correctional facility since January 1, 1998, identify the name of the facility from which the call was placed, the parties to the call, the date and time of the call, the duration of the call, the amount charged for the call, whether the telephone call was placed using a prepaid calling card or as a collect call, the telephone service provider used, and all issues, if any, that you allege affected the quality of the call. Produce all documents, including any billing records or PINs relating to each such call.

DTC - GTL 1-3:

For each telephone call identified in response to DTC-GTL 1-2 that you allege was of poor quality, identify the alleged quality issues(s) and the cause(s) of the alleged quality issue(s), explain how you determined the cause(s) of the issue(s), and if you placed the call from a correctional facility, describe the telephone equipment you used to place the call, and whether the telephone service provider was contacted about the issue, the date and time of such contact, and all documents supporting such contact.

DTC - GTL 1-4:

For Petitioners who are lawyers, law firms or otherwise provide legal services and that claim they have declined to accept calls placed from Massachusetts correctional facilities, or have limited the acceptance of such calls in any way, identify by date and time each instance in which an incoming call was declined and the individual attempting to place the call, and produce all documents relating to such calls and all any policies or procedures relating to accepting, declining or limiting calls placed from Massachusetts correctional facilities.

DTC - GTL 1-5:

Identify each Petitioner that has used a prepaid calling card to place or receive a telephone call from a Massachusetts correctional facility and produce all documents relating to such prepaid calling cards or their use, including the PINs associated with those cards or other prepaid card activation and use records.

DTC - GTL 1-6:

Produce all documents relating to per-call surcharges and/or tariffed service or other fees assessed by telephone service providers serving any Massachusetts correctional facility.

DTC - GTL 1-7:

Produce all documents that were used or relied upon in relation to creating the chart attached as Appendix II to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix II, and identify all individuals who were involved in the creation of that chart, and describe the methodology used to create such chart.

DTC - GTL 1-8:

Produce all documents that were used, or relied upon, to create Appendix III to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix III, and identify all individuals who were involved in the creation of Appendix III.

DTC - GTL 1-9:

Produce all documents that were used, or relied upon, to creating the chart attached as Appendix IV to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix IV, and identify all individuals who were involved in the creation of that chart, and describe the methodology used to create such chart.

DTC - GTL 1-10:

Produce all documents that were used, or relied upon, in relation to creating Appendix V to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix V, and identify all individuals who were involved in the creation of Appendix V.

DTC - GTL 1-11:

Produce all documents that were used, or relied upon, in relation to creating the chart attached as Appendix VI to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix VI, and identify all individuals who were involved in the creation of that chart, and describe the methodology used to create such chart.

DTC - GTL 1-12:

State whether you allege that the telephone rates for in-state and local calls charged by telephone service providers serving Massachusetts correctional facilities violate the Order on Payphone Barriers to Entry & Exit, and OSP Rate Cap issued on or about April 17, 1998 by the Massachusetts Department of Telecommunications and Energy, which was the predecessor agency to the Massachusetts Department of Telecommunications and Cable (the "1998 Order") or any other Massachusetts law or regulation. If your answer is yes to any portion of this request, explain in detail which rates you allege violate the 1998 Order, other law or regulation and how those rates violate the 1998 Order, law or regulation.

DTC - GTL 1-13:

Produce all documents reflecting all correspondence or communications you have had with a telephone service provider regarding any of the allegations in the Petition in this proceeding, including in its Amendments, including all billing records, requests for information relating to billing, and complaints regarding quality of service.

DTC - GTL 1-14:

For each Petitioner that submitted an affidavit in this proceeding, identify all statements included in your affidavit that have changed since the time you signed your affidavit or were incorrect at the time of signing and provide a statement in response to this request updating and/or correcting your affidavit.

DTC - GTL 1-15:

For each Petitioner that did not submit an affidavit in this proceeding, provide a statement in response to this request explaining why you did not submit an affidavit and detailing all issues that you allege support your inclusion as a Petitioner.

DTC - GTL 1-16:

Produce all documents relating to communications with Global Tel*Link or its predecessor relating to any allegations of quality of service or billing issues in relation to telephone calls placed from any Massachusetts correctional facility. If you have no such documents, please state that in writing.

DTC - GTL 1-17:

Produce all documents relating to any communications you have had with the Department of Telecommunications and Cable, any Massachusetts correctional facility, any other federal, state, county or local agency or official, including the Federal Communications Commission, relating to telephone calls placed by prisoners or inmates at correctional facilities.

Dated: March 10, 2014

GLOBAL TEL*LINK CORPORATION

/s/ Chérie R. Kiser

Chérie R. Kiser

Angela F. Collins

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Its Attorneys

CERTIFICATE OF SERVICE

I, Angela F. Collins, certify that on this 10th day of March 2014, I served a copy of the foregoing Global Tel*Link Corporation's First Set of Information Requests to Petitioners on the following via the method indicated:

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Hearing Officer
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Karlen Reed
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Angela F. Collins

ATTACHMENT C

Global Tel*Link Corporation Motion to Compel
D.T.C. 11-16

Responses

DTC - GTL 1-1:

Identify every Petitioner in this action. For each Petitioner that is an entity, provide its physical address, mailing address if different from its physical address, telephone number, and a list of all officers and directors or partners and their titles since January 1, 1998. For each Petitioner who is a natural person, provide that individual's mailing address(es), place(s) of business, telephone number, and any aliases or other names that person has used since January 1, 1998.

Response:

Prisoners' Legal Services, formerly known as Massachusetts Correctional Legal Services, has been located at 10 Winthrop Sq. 3rd Floor, Boston, MA 02110 since May of 2011. From 1998 through May 2011, PLS was located at 8 Winter St. 11th Floor, Boston, MA 02108-4705. The PLS phone number, 617-482-2773, and fax number, 617-451-6383, have remained the same throughout this time. Prisoners' Legal Services changed its name from Massachusetts Correctional Legal Services in 2010.

PLS has provided separate responses regarding each Petitioner, attached to this document. As of this date, PLS has not received responses from the following petitioners:

Peter T. Sargent; Louis M. Badwey; Frank D. Camera; John H. Cunha Jr.; John G. Darrell; Michael DiGioia; Gregory DiPaolo; Anne E. Gowen; James S. Murphy; Anne Roche; Frank H. Spillane; Leonardo Alvarez-Savageau; Kenneth Moccio; Shirley Jay MacGee; Samuel Conti; Stephen Metcalf; Marcos Ramos; Christina Rapoza and Gerardo Rosario.

PLS will continue to make diligent efforts to secure responses from these petitioners and produce them as soon as possible after receipt.

DTC - GTL 1-2:

For each telephone call that you received from, or placed as, a prisoner or inmate in a Massachusetts correctional facility since January 1, 1998, identify the name of the facility from which the call was placed, the parties to the call, the date and time of the call, the duration of the call, the amount charged for the call, whether the telephone call was placed using a prepaid calling card or as a collect call, the telephone service provider used, and all issues, if any, that you allege affected the quality of the call. Produce all documents, including any billing records or PINs relating to each such call.

Response:

Prisoners' Legal Services objects to the request insofar as it requires the identification of each call received from all clients over the years and specific information regarding each call. This request is unduly burdensome. PLS also objects to the request that parties to the calls be identified as a violation of attorney-client privilege.

Without waiving this objection, PLS provides the phone records in its possession, which go back to 2006. PLS receives phone calls via collect call and direct bill from all county and state correctional facilities in Massachusetts. The providers are GTL, Securus (formerly Evercom) and Inmate Calling Solutions. PLS refers Respondent GTL to its response to Securus 1-7 for average duration of a call for 2008 and for documentation regarding total payments made for phone service in 2008 to both Securus Correctional Billing and Correctional Billing Services. In addition, PLS submits print outs of all payments made to the following providers or third party billers: EarthLink, DSI-ITI, LLC, Correctional Billing Services, and Securus Correctional Billing Services. In addition, PLS submits all relevant phone records in its possession.

PLS further attests that poor quality of phone calls, dropped calls, inability of clients to get through to PLS, static, inaudible phone calls, and interference (beeping, other conversations, etc.) remain commonplace problems. Over the last three months, in particular, PLS has experienced additional problems with GTL. For multiple periods since early February 2014, clients have been unable to call PLS out of various correctional facilities. On at least two occasions, PLS was unable to receive calls from clients from *any* state facility. Multiple clients also reported that the PLS number was dropped from their PIN list by GTL, which further hindered their ability to call when the system was up and running again. During this same time period, PLS experienced multiple dropped calls or an inability to accept calls. The phone would ring, a PLS staff person would attempt to pick up the phone to accept the call and the call would repeatedly drop.

DTC - GTL 1-3:

For each telephone call identified in response to DTC-GTL 1-2 that you allege was of poor quality, identify the alleged quality issue(s) and the cause(s) of the alleged quality issue(s), explain how you determined the cause(s) of the issue(s), and if you placed the call from a correctional facility, describe the telephone equipment you used to place the call, and whether the telephone service provider was contacted about the issue, the date and time of such contact, and all documents supporting such contact.

Response:

PLS objects to the request insofar as it requires an identification and description of each call of poor quality during conversations with each client. This request is unduly burdensome. PLS also objects to the extent that this request calls for attorney work product or information protected by attorney-client privilege.

Without waiving this objection, PLS states that beginning on February 3, 2014, clients from DOC facilities and some counties began having serious difficulty reaching PLS. Especially in early February, there were several periods during which PLS was completely unable to receive phone calls from prisoners. From on or about February 3rd through mid-April 2014 Department of Correction prisoners were often unable to reach PLS using the speed dial number which is how virtually all prisoners from DOC facilities call PLS. There were also widespread reports from DOC prisoners that GTL had dropped PLS from their PIN lists, preventing them from

being able to call PLS. Although PLS does not have a complete list of each incident, the following are dates on which PLS confirmed such connection problems: February 3, 4, 7, 10, 18, and 20th; March 4; April 3, 4, 7, and 15. All of these dates are from 2014.

PLS omits on the basis of attorney work product and attorney-client privilege internal e-mails exchanged on or about February 3rd to the present regarding the problems PLS has been experiencing receiving calls from correctional facilities, which includes some discussion regarding telephone calls with correctional facilities and a GTL field representative. PLS also omits an attorney's handwritten notes on those conversations.

DTC - GTL 1-4:

For Petitioners who are lawyers, law firms or otherwise provide legal services and that claim they have declined to accept calls placed from Massachusetts correctional facilities, or have limited the acceptance of such calls in any way, identify by date and time each instance in which an incoming call was declined and the individual attempting to place the call, and produce all documents relating to such calls and all any policies or procedures relating to accepting, declining or limiting calls placed from Massachusetts correctional facilities.

Response:

PLS objects to the request insofar as it requires the identification by date and time each instance in which an incoming call was declined. This request is unduly burdensome.

Without waiving this objection, PLS has no records or recollection of rejecting or limiting any calls and has no responsive documents in its possession. However, as PLS has mentioned above, PLS was unable to accept calls due to glitches in the DOC phone system, particularly since February. In support of its statements that calls were limited, PLS submits two Department of Corrections memos in its possession: 1) Temporary Stop to Inmate Debit Calling Deposits and 2) Dialing Instructions for Universally Approved Services.

DTC - GTL 1-5:

Identify each Petitioner that has used a prepaid calling card to place or receive a telephone call from a Massachusetts correctional facility and produce all documents relating to such prepaid calling cards or their use, including the PINs associated with those cards or other prepaid card activation and use records.

Response:

This request does not apply to PLS.

DTC - GTL 1-6:

Produce all documents relating to per-call surcharges and/or tariffed service or other fees assessed by telephone service providers serving any Massachusetts correctional facility.

Response:

PLS has no responsive documents in its possession other than bills referenced above and the inmate calling service contracts and requests for proposals submitted in response to Respondents Securus' information requests.

DTC - GTL 1-7:

Produce all documents that were used or relied upon in relation to creating the chart attached as Appendix II to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix II, and identify all individuals who were involved in the creation of that chart, and describe the methodology used to create such chart.

Response:

PLS objects to this request insofar as it seeks attorney work product. Without waving this objection, PLS refers Respondent GTL to its answer to Securus 1-4. In addition, PLS states that the methodology it used to create the chart was simple arithmetic using the commission data it obtained from public records request responses from the DOC and county facilities and by using the population data for each facility for the corresponding year, which is posted on the Department of Corrections website. PLS provided that link in its response to Securus 1-4.

DTC - GTL 1-8:

Produce all documents that were used, or relied upon, to create Appendix III to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix III, and identify all individuals who were involved in the creation of Appendix III.

Response:

PLS objects to this request insofar as it seeks attorney work product. Without waving this objection, PLS refers Respondent GTL to its answer to Securus 1-5.

DTC - GTL 1-9:

Produce all documents that were used, or relied upon, to creating the chart attached as Appendix IV to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix IV, and identify all individuals who were involved in the creation of that chart, and describe the methodology used to create such chart.

Response:

PLS objects to this request insofar as it seeks attorney work product. Without waving this objection, PLS refers Respondent GTL to its answer to Securus 1-15. In addition, PLS states that the methodology it used to create the chart was simple arithmetic using the collect intralata per minute or flat call rate data it obtained from various sources disclosed in response to Securus 1-15. In some cases the calculations were provided by the CURE etc. campaign or by individual state contracts and for others, PLS calculated the amounts by adding the surcharge to the 15 minute rate total for each state for 2004 and 2008 as available.

DTC - GTL 1-10:

Produce all documents that were used, or relied upon, in relation to creating Appendix V to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix V, and identify all individuals who were involved in the creation of Appendix V.

Response:

PLS objects to this request insofar as it seeks attorney work product. Without waving this objection, PLS refers Respondent GTL to its answer to Securus 1-14.

DTC - GTL 1-11:

Produce all documents that were used, or relied upon, in relation to creating the chart attached as Appendix VI to the Petition in this proceeding, dated August 31, 2009, including all working drafts of Appendix VI, and identify all individuals who were involved in the creation of that chart, and describe the methodology used to create such chart.

Response:

PLS objects to this request insofar as it seeks attorney work product. Without waving this objection, PLS refers Respondent GTL to its answer to Securus 1-38. In addition, PLS states that the methodology it used to create the chart was simple arithmetic using the commission data it obtained from public records requests to the DOC and county facilities and by backing out the commission amount from the total consumer cost of the call.

DTC - GTL 1-12:

State whether you allege that the telephone rates for in-state and local calls charged by telephone service providers serving Massachusetts correctional facilities violate the Order on Payphone Barriers to Entry & Exit, and OSP Rate Cap issued on or about April 17, 1998 by the Massachusetts Department of Telecommunications and Energy, which was the predecessor agency to the Massachusetts Department of Telecommunications and Cable (the "1998 Order") or any other Massachusetts law or regulation. If your answer is yes to any portion of this

request, explain in detail which rates you allege violate the 1998 Order, other law or regulation and how those rates violate the 1998 Order, law or regulation.

Response:

Petitioner PLS objects to this request as calling for a legal conclusion.

Without waiving this objection, PLS does not contend that any state or county rates or surcharges currently violate the Order on Payphone Barriers to Entry & Exit, and OSP Rate Cap issued on or about April 17, 1998 by the Massachusetts DTE.

DTC - GTL 1-13:

Produce all documents reflecting all correspondence or communications you have had with a telephone service provider regarding any of the allegations in the Petition in this proceeding, including in its Amendments, including all billing records, requests for information relating to billing, and complaints regarding quality of service.

Response:

PLS objects insofar as this request seeks information already in the possession of the Respondents. Without waiving this objection, PLS has provided all billing records in its possession from all relevant providers as well as other written communications and complaints in its possession that PLS has sent to the providers.

DTC - GTL 1-14:

For each Petitioner that submitted an affidavit in this proceeding, identify all statements included in your affidavit that have changed since the time you signed your affidavit or were incorrect at the time of signing and provide a statement in response to this request updating and/or correcting your affidavit.

Response:

PLS attests that its affidavit was accurate at the time it was signed. PLS states that in addition to the problems mentioned in its original affidavit, PLS has also experienced the problems explained in its answers to GTL 1-2 and 1-3.

DTC - GTL 1-15:

For each Petitioner that did not submit an affidavit in this proceeding, provide a statement in response to this request explaining why you did not submit an affidavit and detailing all issues that you allege support your inclusion as a Petitioner.

Response:

PLS submitted an affidavit.

DTC - GTL 1-16:

Produce all documents relating to communications with Global Tel*Link or its predecessor relating to any allegations of quality of service or billing issues in relation to telephone calls placed from any Massachusetts correctional facility. If you have no such documents, please state that in writing.

Response:

PLS provided all responsive documents in its possession in its response to GTL 1-13.

DTC - GTL 1-17:

Produce all documents relating to any communications you have had with the Department of Telecommunications and Cable, any Massachusetts correctional facility, any other federal, state, county or local agency or official, including the Federal Communications Commission, relating to telephone calls placed by prisoners or inmates at correctional facilities.

Response:

PLS objects insofar as this request seeks information already in the possession of Respondents. PLS also objects on the basis that the request is overly broad and seeks attorney work product. Without waiving this objection, PLS has produced all communications in its possession except for internal e-mails, notes and other documents that are protected as attorney work product and which PLS has identified below.

PLS omits the following correspondence between former staff attorney Brad Brockmann and Michael Isenberg, former Director of the Telecommunications Division of the DTE:

Letter from Brad Brockman to Michael Isenberg dated January 16, 2007

E-mail correspondence between Brad Brockmann and Mike Isenberg dated 10/3/2007 and 10/7/2007

E-mail correspondence between Brad Brockman and Mike Isenberg dated 1/15/2008 and 1/17/2008

E-mail correspondence between Brad Brockman and Mike Isenberg dated 2/26/2007 and 2/29/2008.

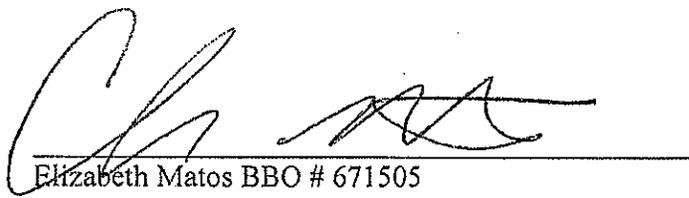
Public records request correspondences with Massachusetts correctional facilities were submitted along with the respective contracts and RFRs for those facilities. PLS also submits e-mail correspondence with Kyra Silva, Director of Operation at the DOC from February 2014 as well as e-mail correspondence with Brian Kearnan, Contract Director for the DOC, from January and February 2013 and February 2014.

In addition, PLS submits a letter from Attorney Brad Brockman to DOC Commissioner James Bender dated May 31, 2006 and a letter to Attorney Jesse Reyes at the Massachusetts Attorney General's Office dated September 8, 2010.

Prisoners' Legal Services submitted comments to the FCC on NPRM 12-375 on March 25, 2013 as well as on 12/18/2013 in FNPRM 12-375. PLS comments regarding NPRM 12-375 can be found at: <http://apps.fcc.gov/ecfs/document/view?id=7022134716>.

PLS comments regarding FNPRM 12-375 can be found at: <http://apps.fcc.gov/ecfs/document/view?id=7520963431>.

Dated: 4/29/14



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