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*ADMITTED IN DC ONLY

June 25, 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, respectfully submits its Opposition to Petitioners' Motion to Compel Responses to Interrogatories and Requests for Production filed May 30, 2014. This filing consists of GTL's Opposition and Attachment A, which contains copies of GTL's interrogatory responses, document responses, and supplemental responses provided to Petitioners.

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.

Catrice C. Williams
Secretary
June 25, 2014
Page 2 of 2

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Chérie R. Kiser". The signature is fluid and cursive, with a large loop at the end.

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
OPPOSITION TO PETITIONERS' MOTION TO COMPEL
RESPONSES OF SECURUS AND GLOBAL TEL*LINK
TO INTERROGATORIES AND REQUESTS FOR PRODUCTION**

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**Before the
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TO INTERROGATORIES AND REQUESTS FOR PRODUCTION**

Global Tel*Link Corporation (“GTL”), by its attorneys, hereby respectfully requests the Massachusetts Department of Telecommunications and Cable (the “Department”) deny Petitioners’ motion to compel in its entirety, without leave to replead, because it is procedurally and substantively flawed.¹

I. INTRODUCTION

1. In August 2009, Petitioners filed a wide-ranging Petition challenging the Department’s rules regarding intrastate inmate calling services. In September 2013 the Department reviewed the twice-amended Petition and issued an Interlocutory Order that significantly limited the scope of this proceeding to “the per-call surcharge assessed by ICS [inmate calling services] providers; the tariffed service and other fees assessed by ICS providers; the telephone service quality provided by Respondents, including the frequency of dropped calls and line noise; and Respondents’ billing practices.”² The *Interlocutory Order* specifically

¹ This Opposition is timely filed. On June 5, 2014, the Department issued its Order on Motion for Extension of Time in this proceeding, which set June 25, 2014 as the deadline for responses to the motions to compel that had been filed on May 30, 2014. See 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*, Order on Motion for Extension of Time (June 5, 2014).

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*, Hearing Officer Interlocutory Ruling (Sept. 23, 2013) at 1-2, *aff’d by*, Order on Appeal of Hearing Officer’s Ruling (Feb. 26, 2014) (“*Interlocutory Order*”).

excluded from this proceeding issues relating to the usage rate component of the ICS rate-setting mechanism, among other issues.³ The *Interlocutory Order* was affirmed in February 2014.⁴

2. Notwithstanding the *Interlocutory Order*, which limited the scope of this proceeding, Petitioners continue to serve wide-ranging discovery requests that are not relevant to the matters at issue. Petitioners' motion ignores the Department's rulings regarding the scope of this proceeding, is substantively flawed, and should be denied.

3. The day after the *Interlocutory Order* was affirmed, the Department issued a Procedural Order, setting the ground rules for this proceeding, including specific rules for motions relating to discovery.⁵ Petitioners' motion ignores the Department's rulings regarding discovery motions, and thus is procedurally improper, and should be denied.

II. PETITIONERS' MOTION IS PROCEDURALLY IMPROPER

4. Petitioners' motion to compel is procedurally improper in at least two respects, the second, far more important than the first.

5. First, the *Procedural Order* states that when a discovery dispute arises:

“Counsel for each of the parties shall confer in advance of filing any discovery motion in a good faith effort to narrow areas of disagreement to the fullest possible extent. . . . All such motions *shall contain a certificate* stating that the conference was held, together with the date and time of the conference and the names of all participating parties. Motions unaccompanied by such certificate will be denied without prejudice.”⁶

³ *Id.* at 2.

⁴ 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*, Order on Appeal of Hearing Officer's Ruling (Feb. 26, 2014).

⁵ 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 4-6 (Feb. 27, 2014) (“*Procedural Order*”).

⁶ *Procedural Order* at 5-6 (emphasis added).

Petitioners submitted no such certificate with their motion, and therefore their motion should be denied for failure to comply with the *Procedural Order*.⁷

6. Second, and more importantly, Petitioners did not follow the *Procedural Order*'s requirement that "[a]ll motions arising out of a party's response to, or asserted failure to comply with, an information or record request, shall be accompanied by a brief [and that] [w]ith respect to each request for proprietary treatment *or other information/record request at issue*, the brief shall set forth separately and in the following order: (1) the text of the request; (2) *the opponent's response*; and (3) a specific legal and factual argument."⁸

7. Petitioners consistently fail to set forth GTL's responses and objections,⁹ offering at most a severely truncated and biased statement written by Petitioners, but misleadingly labeled as "GTL Response." For example, in regard to Interrogatory 13, Petitioners told the Department that GTL's response was:

GTL states its general objections (no. 1, 3, and 8) and further objects that the Interrogatory is not relevant, not reasonably calculated to lead to the discovery of admissible evidence and publicly available.¹⁰

But that one sentence was not GTL's response. GTL's actual response to Interrogatory 13, including the supplemental response and general objections that Petitioners were required to provide to the Department, was:

⁷ If the failure to submit a certificate had been the sole failing with Petitioners' motion to compel, GTL would not have called it to the Department's attention, but coupled with other procedural and substantive faults in Petitioners' motion, it sheds light on how this proceeding is being conducted.

⁸ *Procedural Order* at 6 (emphasis added).

⁹ For the convenience of the Department, attached hereto as Attachment A are copies of (1) the public version of GTL's Supplemental Responses and Objections to Petitioners' First Set of Interrogatories and Petitioners' First Set of Requests for Production of Documents, (2) the public version of GTL's Responses and Objections to Petitioners' First Set of Interrogatories, and (3) GTL's Responses and Objections to Petitioners' First Set of Requests for Production of Documents.

¹⁰ Petitioners' Motion to Compel at 18.

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding, is not reasonably calculated to lead to the discovery of admissible evidence, and seeks information that is publicly available in GTL's Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL's website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff's Department and Correctional Facility website, and on the Norfolk County Sheriff's Office website.

GTL provides the following publicly available websites where information regarding fees associated with prepaid accounts is available:

- <https://www.offenderconnect.com/portal>
- <http://www.gtl.net/friends-and-family-information/>
- <http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link (GTL)/Inmate Telephone Services)
- <http://www.mass.gov/eopss/agencies/doc/advancepay.html>
- <http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>
- <http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>
- <http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-questions.html>
- <http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>
- http://www.pcsdma.org/Inmate_Information.asp
- <http://norfolksheriff.com/friends-and-family-of-inmates/>

Person who will support GTL Response to Interrogatory No. 13:
Brian Hackett, Regulatory Affairs Manager, Global Tel*Link Corporation

GENERAL OBJECTIONS

1. GTL objects to the Interrogatories to the extent they seek information that is not relevant to the subject matter of this proceeding and are not reasonably calculated to lead to the discovery of admissible evidence. In its September 23, 2013 *Interlocutory Order*, the Department of Telecommunications and Cable (the "DTC") limited the scope of this proceeding to "the per-call surcharge assessed by ICS [inmate calling service] providers; the tariffed service and other fees assessed by ICS providers; the telephone service quality provided by Respondents, including the

frequency of dropped calls and line noise; and Respondents' billing practices.”¹ The DTC specifically excluded from this proceeding issues relating to the usage rate component of the ICS rate-setting mechanism, the frequency and content of recorded warning messages, and the availability and upkeep of telecommunications equipment at correctional facilities. *Interlocutory Order* at 2. Therefore, any Interrogatory related to the excluded issues or outside the limited scope of this proceeding is improper.

In the *Interlocutory Order*, the DTC acknowledged the “unique additional costs associated with” inmate calling services, which are above and beyond the traditional cost recovery addressed by usage rates. *Interlocutory Order* at 19. A similar acknowledgement in 1998 led the DTC’s predecessor to adopt a per-call surcharge of \$3.00 per call.² The DTC explained that “the rate-setting mechanism adopted for ICS in the *1998 Order* is an incentive regulatory scheme. ‘Any definition of reasonable compensation under an incentive regulatory scheme must be broad enough to allow a utility that is achieving above-average efficiencies to earn more than has been defined as a ‘fair return’ under [rate of return] regulation.’ The Department designed the surcharge to allow ICS providers recovery of legitimate additional costs associated with ICS and to encourage ICS providers to improve productivity and reduce costs through advances in technology similar to the benefit a service provider may receive in a competitive marketplace.” *Interlocutory Order* at 23-24 (citation omitted). According to the DTC, “[w]hether an ICS provider treats those extra earnings as profit, or utilizes them to improve its bidding position to provide ICS through offering lower rates or more generous commissions to a correctional facility, is at the discretion of the provider.” *Interlocutory Order* at 24.

In setting the surcharge, the DTC’s predecessor looked to rates charged by companies in 33 states and held that it could “reasonably rely on the costs of these carriers as a proxy for the costs of inmate callings services providers in Massachusetts.” *1998 Order* at 10 (finding that using rate caps “provides an administratively efficient way for the Department to ensure that these rates remain reasonable”). The DTC’s use of other states as a proxy was an efficient method for the agency to determine the surcharge and was based on an implicit holding that it was unnecessary for ICS providers in Massachusetts to submit detailed ICS cost analyses in order for the DTC to set a reasonable per-call surcharge. *See, e.g.*, D.P.U. 94-50, *NYNEX Price Cap* (May 12, 1995) (finding “one of the primary benefits of price cap regulation is that it renders unnecessary certain regulatory reviews, such as cost allocation and prudence inquiries, that have been fundamental to [rate of return] regulation”); D.P.U. 93-98, *Regulatory Treatment of Telecommunications Common Carriers* (May 11, 1994) (“current market forces,

¹ 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*, Hearing Officer Interlocutory Ruling (Sept. 23, 2013), *aff’d by*, Order on Appeal of Hearing Officer’s Ruling (Feb. 26, 2014) at 1-2 (“*Interlocutory Order*”).

² D.P.U./D.T.E. 97-88/97-18 (Phase II), *Investigation by the Department of Telecommunications and Energy on Its Own Motion regarding (1) Implementation of Section 276 of the Telecommunications Act of 1996 relative to Public Interest Payphones, (2) Entry and Exit Barriers for the Payphone Marketplace, (3) New England Telephone and Telegraph Company d/b/a NYNEX’s Public Access Smart-Pay Line Service, and (4) the Rate Policy for Operator Services Providers*, Order on Payphone Barriers to Entry and Exit, and OSP Rate Cap, at 10 (Apr. 17, 1998) (“*1998 Order*”).

statutory requirements, and the Department's tariff regulations, notice requirements, and consumer complaint resolution process, are sufficient to ensure not only that rates are just and reasonable but that there is adequate consumer protection for interexchange, competitive access, and [alternative operator services], absent the regulation of entry into these markets"); D.P.U. 94-184, *IntraLATA and Local Exchange Competition* (Aug. 29, 1996) (stating that competitors "may file tariff revisions for existing and new service offerings with minimal cost-support documentation"). GTL therefore objects to the Interrogatories to the extent they request information on costs that are covered by the surcharge because the DTC has acknowledged (1) that the surcharge is not directly related to such costs and (2) that ICS providers are not required to itemize their costs in order for the DTC to set a reasonable surcharge.

GTL also objects to all Interrogatories relating to the amount or reasonableness of commissions as the DTC has no jurisdiction over such commissions, which are set by the Massachusetts Department of Corrections, and therefore are outside the scope of this proceeding. *See Breest v. Dubois*, No. 94-1665H, 1997 WL 449898 (Mass. Super. 1997) (holding that the Department of Corrections has the authority to enter into contracts requiring commissions on inmate calls because the DOC is responsible for making and entering into any contracts and agreements necessary for the performance of its duties, which includes maintaining security, safety and order at all state correctional facilities). GTL also objects to all Interrogatories relating to the provision of interstate inmate calling services because such services are not within the jurisdiction of the DTC. *See G.L. c. 159, § 12; see also D.T.E. 03-60, 04-73, Consolidated Order Dismissing Triennial Review Order Investigation and Vacating Suspension of Tariff M.D.T.E. No. 17* (Dec. 15, 2004) ("Under Massachusetts law, the Department has the power of 'general supervision and regulation of, and jurisdiction and control' over the 'transmission of intelligence within the commonwealth by electricity, by means of telephone lines or telegraph lines or any other method or system of communication.' This jurisdiction extends to services 'when furnished or rendered for public use within the commonwealth' by 'common carriers.' The Department exercises jurisdiction over such intrastate telecommunications services, *i.e.*, furnished within the commonwealth, to the full extent not preempted by federal law.").

In short, most of Petitioners' Interrogatories have little relation to the issues in this proceeding and are just impermissible fishing expeditions. *See, e.g., Alphas Co., Inc. v. Kilduff*, 888 N.E.2d 1003, 1012 (Mass Ct. App. 2008) (affirming summary judgment and noting that "[p]arties may not 'fish' for evidence on which to base their complaint in hopes of somehow finding something helpful to their case in the course of the discovery procedure") (internal quotation marks omitted).

2. GTL objects to the Interrogatories to the extent they seek to impose a burden beyond that permitted by 220 CMR 1.00, the *Procedural Order* issued on February 27, 2014 in this proceeding ("*Procedural Order*") or other applicable law or regulation. GTL also objects to Petitioners' attempt to incorporate Superior Court

Standing Order 1-09 in its Definitions and Instructions to the extent it conflicts with, or attempts to expand or modify, the obligations and procedures set forth in 220 CMR 1.00 or the *Procedural Order*.

3. GTL objects to the Interrogatories on the grounds that they are vague, ambiguous, overbroad, unduly burdensome or similarly inappropriate.

4. GTL objects to the definition of “GTL” and “you” and “your” as vague, ambiguous, overbroad and unduly burdensome and specifically objects to the definition to the extent it attempts to include insurers, assigns, successors, executors, firms, trustees, receivers, custodians, contractors, subcontractors and shareholders.

5. GTL objects to the definition of “consumer” as vague, ambiguous, overbroad and unduly burdensome and specifically objects to the definition to the extent it purports to include any individual or entity that does not have a contractual relationship with GTL.

6. GTL objects to the definition of “calendar year” as vague, ambiguous, overbroad and unduly burdensome and when referring to 2014, shall respond as if that term were defined as January 1, 2014 to March 10, 2014.

7. GTL objects to the Interrogatories to the extent they call for confidential information, including, but not limited to, proprietary, trade secret and/or commercially sensitive information.

8. GTL objects to the Interrogatories to the extent the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the proceeding, the amount in controversy, the parties’ resources, the importance of the issue or issues to which the Interrogatories are directed and the importance of discovery in resolving such issue or issues.

9. GTL objects to the Interrogatories to the extent that they seek information that is not within GTL’s possession, custody or control.

10. GTL objects to the Interrogatories on the ground that they seek information that is publicly available.

11. GTL objects to the Interrogatories to the extent that they require that documents be identified or described and reserves the right instead to produce such documents, if any, either in response to an Interrogatory or as kept in the ordinary course of business.

12. GTL objects to the Interrogatories to the extent that they seek documents and information protected from disclosure by the attorney-client privilege, the common interest privilege or joint defense privilege, the attorney

work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. To the extent that the Interrogatories seek such privileged or protected information, GTL hereby claims such privilege(s) and invokes such protection(s). Any documents or information disclosed in response to the Interrogatories shall be disclosed without waiving, but on the contrary, preserving and intending to preserve, each of these privileges and protections. Any inadvertent disclosure of privileged or protected information or documents shall not be deemed a waiver of the applicable privilege(s) or protection(s), and any such document and all copies and images thereof shall be returned to GTL upon demand and/or upon discovery of the inadvertent production.

13. In responding to these Interrogatories, GTL does not waive or intend to waive but rather intends to preserve and is preserving:

- a. All objections as to the relevancy, materiality, admissibility, vagueness, ambiguity, or other infirmity in the form of the Interrogatories and any objections based on the undue burden imposed by any of the Interrogatories;
- b. All rights to object on any ground to the use of the answers, or their subject matter, in this proceeding or any other action;
- c. All rights to object on any ground to any further Interrogatories or other discovery requests involving or related to the subject matter of the Interrogatories; and;
- d. Any and all privileges and rights under any applicable law.

14. These responses are based upon information now known to GTL. GTL reserves the right to amend and/or supplement these Responses and Objections at any time.

15. Nothing in these responses shall be construed as constituting or implying an admission of any allegation or agreement with any assertion or characterization in the Interrogatories.

16. In addition to the general objections set forth above, GTL will also state specific objections to the Interrogatories where appropriate, including objections that are not generally applicable to each of the Interrogatories. By setting forth such specific objections, GTL does not intend to limit or restrict the General Objections set forth above. To the extent that GTL responds to specific Interrogatories, GTL is not waiving its stated objections by providing information. GTL's General Objections are incorporated in full into the specific responses set forth below.

8. In short, GTL's response to Interrogatory 13 was nearly five single-spaced pages long. Despite Petitioners' clear obligation to provide the Department with GTL's response,

Petitioners truncated GTL's answer to one sentence and then represented to the Department that is was the "GTL Response." Petitioners did not even attach to their motion a copy of GTL's responses to Petitioners' Interrogatories and Requests for Production or GTL's Supplemental Responses and Objections that were served before the Petitioners' motion was filed. Further, Petitioners never set forth in their motion the general objections raised by GTL, without which a person reading Petitioners' motion would have no way of knowing that GTL had objected to Interrogatories and Document Requests relating to the amount or reasonableness of commissions, among other issues.

9. Putting aside for the moment the substantive issues raised by Interrogatory 13, Petitioners failed to satisfy the requirements of Section II.D.3 of the *Procedural Order*. Petitioners' treatment of Interrogatory 13 is not unique. Petitioners repeatedly withheld information the Department needs to rule on the motion.

10. Unlike their failure to attach a certificate regarding the discovery conference, Petitioners' failure to provide adequate information to the Department is cause for denial of this motion with prejudice. Their motion violates the *Procedural Order* while potentially misleading the Department. *Cf. Howard ex rel Atena Design Systems, Inc. v. Brynwood Partners II, L.P.*, 1996 WL 1186931, at *1 (Mass. Super. Ct. May 1, 1996) (denying motion to compel for failure to fulfill requirements of Superior Court Rule 30A for discovery motions to contain (1) a text of the interrogatory or request, (2) the opponent's response and (3) an argument because moving party "has not specified the deficiency of each answer as well as an argument as to why it is deficient, and has not clarified with particularity what answers it wishes this court to compel").

III. PETITIONERS' MOTION IS SUBSTANTIVELY FLAWED

A. Only Relevant Information is Subject to Discovery

11. A cornerstone premise of discovery is that only relevant information is discoverable. “The purpose of discovery is to permit the parties and the Department ‘to gain access to all *relevant* information in an efficient and timely manner.’” D.T.E. 01-70, *In re Fiber Technologies Networks, L.L.C.*, 2002 WL 32101642, at *15 (Mass. D.T.E. Dec. 24, 2002) (quoting 220 C.M.R. § 1.06(6)(c)(1)). “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 of Massachusetts Regulations 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) (emphasis added). Similarly Rule 26(b)(1) of the Massachusetts Rules of Civil Procedure emphasizes that discovery may be had of non-privileged material that is “relevant to the subject matter involved in the pending action.”

12. The Department has made clear that if information outside the scope of a proceeding is sought through a motion to compel, that motion should be denied. *See* D.T.E. 98-13 (A-F), *In re Boston Edison Co.*, 1999 WL 587144, at *4. (Mass. D.T.E. Apr. 16, 1999) (denying Attorney General’s motion to compel where requests sought detailed information, which essentially amounted to an attempt to conduct an audit that was “inconsistent with the intention of the Department in commencing this investigation and outside the scope of this proceeding”).

B. The *Interlocutory Order* Limited the Scope of the Proceeding

13. In the *Interlocutory Order*, the Department limited the scope of this proceeding to “the per-call surcharge assessed by ICS [inmate calling services] providers; the tariffed service and other fees assessed by ICS providers; the telephone service quality provided by Respondents, including the frequency of dropped calls and line noise; and Respondents’ billing practices.”¹¹ The Department specifically excluded from this proceeding issues relating to the usage rate component of the ICS rate-setting mechanism, the frequency and content of recorded warning messages, and the availability and upkeep of telecommunications equipment at correctional facilities.¹² Therefore, any request related to the excluded issues or outside the limited scope of this proceeding is improper.

14. Despite the limited nature of this proceeding, Petitioners urge the Department to conduct a detailed cost-based investigation into the surcharge and surcharge cap. However, Petitioners’ motion ignores three important facts.

15. First, a surcharge cap does not set rates that customers will be charged. It simply sets a maximum amount for the surcharge, which provides certainty for all parties by setting “limits on prices carriers can charge for their services.”¹³ Because rate caps set a range of allowable charges, they cannot be based on a direct correlation between costs and the surcharge cap, making a request for a detailed cost-based investigation of the cap an oxymoron. It is undisputed that although the allowed surcharge is \$3.00 per call, GTL charges customers well below the cap in many instances. For example, according to the GTL tariff produced to

¹¹ *Interlocutory Order* at 1-2.

¹² *Interlocutory Order* at 2.

¹³ *Policy and Rules Concerning Rates for Dominant Carriers*, 5 FCC Rcd 6786, ¶ 22 (1990).

Petitioners, the surcharge is 86 cents per collect or Advance Pay collect calls (less than 29 percent of what is allowed) and 65 cents for prepaid debit calls (less than 22 percent of what is allowed). *See* GTL 0025, 0031, 0032.

16. Second, Petitioners' repeated references to, and reliance upon the *ICS Order and FNPRM* adopted by the Federal Communication Commission ("FCC") is misplaced and misleading.¹⁴ Despite numerous references to the *ICS Order and FNPRM* in their motion, Petitioners never disclose to the Department (1) that the *ICS Order and FNPRM* (and the regulations adopted therein) currently are being reviewed by the United States Court of Appeals for the District of Columbia Circuit or (2) that nearly all of the rules adopted by the *ICS Order and FNPRM* have been stayed pending the court's review.¹⁵

17. The current status of the *ICS Order and FNPRM* demonstrates the fallacies in Petitioners' argument that the FCC's existing data collection supports Petitioners' request for "actual cost data" here.¹⁶ As explained in the *ICS Order and FNPRM*, the FCC instituted a one-time data collection from ICS providers to "ensure that rates, charges and ancillary charges are cost-based."¹⁷ The FCC reasoned that the requested data would "enable the [FCC] to take

¹⁴ *Rates for Interstate Inmate Calling Services*, 28 FCC Rcd 14,107 (2013) ("*ICS Order and FNPRM*"), *on appeal in Securus Technologies, Inc. v. FCC*, Nos. 13-1280, 13-1281, 13-1291, 13-1300 (D.C. Cir.). Petitioners' reliance on the affidavits they have filed over the years is equally unavailing as those opinions (often written in other proceedings) are not binding on the Department.

¹⁵ *Securus Technologies, Inc. v. FCC*, No. 13-1280 Slip Op. (D.C. Cir. Jan. 13, 2014). The court stayed implementation of the following rules pending the court's resolution of the case on the merits: (1) the requirement that interstate inmate calling service rates and ancillary charges to be cost-based; (2) the requirement that interstate inmate calling service rates comply with the \$0.14 and \$0.12 per minute safe harbors; and (3) the requirement that inmate calling service providers file annual reports and certifications with the FCC. The rule implementing the \$0.21 and \$0.25 rate caps for interstate inmate calls was not stayed, and went into effect as planned on February 11, 2014.

¹⁶ Petitioners' Motion at 7.

¹⁷ *ICS Order and FNPRM* ¶ 124; *see also* Federal Register Notice, Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested, Vol. 79, No. 11, at 2834-35

further action to reform rates, including developing a permanent cap or safe harbor for interstate rates.”¹⁸ The D.C. Circuit, however, stayed implementation of the FCC rule requiring ICS rates and ancillary charges to be cost-based finding that the petitioners in the appeal had “satisfied the stringent requirements for a stay pending court review,” which look at whether the petitioners are likely to succeed on the merits, whether the petitioners will suffer irreparable harm absent a stay, and whether the equities favor a stay.¹⁹

18. The FCC’s stated purpose for the data collection no longer exists in light of the court’s stay,²⁰ and the cost data being collected by the FCC is unlikely to have any utilitarian value to the FCC as it establishes interstate ICS rates in the future. If the FCC abandons a cost-based rate requirement – either on its own motion or in response to a decision from the appeals court – the FCC’s own precedent demonstrates that no cost data is necessary to establish a rate cap regime for interstate ICS rates.

19. In the 1980s, the FCC determined that its existing policy requiring non-dominant carriers to support their proposed rates “with extensive cost and other economic data” was no longer necessary.²¹ The FCC found that “[b]ecause the cost of developing this information is relatively great for a non-dominant carrier, the rates paid by its ultimate users are likely to be

(Jan. 16, 2014) (“The data will be used to inform the Commission’s evaluation of rate reform options in the FNPRM, to enable the Commission to transition from interim rate safe harbors and rate caps to permanent rate reform, and to enable the Commission to discharge its core responsibility of ensuring just, reasonable and fair rates as required by sections 201 and 276 by ensuring interstate ICS rates are cost-based.”).

¹⁸ *ICS Order and FNPRM* ¶ 124.

¹⁹ *Securus Technologies, Inc. v. FCC*, No. 13-1280 Slip Op. (D.C. Cir. Jan. 13, 2014).

²⁰ ICS providers nonetheless are required to respond to the data collection because it has been approved by the Office of Management and Budget, which approves data collections based on the requirements of the Paperwork Reduction Act, not based on the substance of the data collection.

²¹ *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 85 FCC 2d 1, ¶ 97 (1980) (“*Competitive Carrier Order*”).

higher than if all competitive carriers were free from this unnecessary regulatory burden.”²² The cost justification requirement therefore “serves no useful purpose commensurate with the costs of compliance” and “nullifies many consumer benefits that competition produces.”²³

20. Similar to Massachusetts, the FCC also abandoned the use of rate-of-return regulation to set carrier rates in the early 1990s. Under rate-of-return regulation, “carriers are allowed to set their rates based on the costs – investment and expense – of providing a service.”²⁴ The FCC moved away from rate-of-return regulation in favor of “incentive regulation” because it rewards “companies that become more productive and efficient, while ensuring that productivity and efficiency gains are shared with ratepayers.”²⁵ Rate-of-return regulation lacks such incentives, and instead promotes “inefficiencies” because carriers “attribute unnecessary costs to their operations in an effort to generate more revenue.”²⁶

21. The FCC also abandoned rate-of-return regulation because it produces “high administrative costs,” fosters “cross-subsidization,” creates incentives for misallocation of costs, and supplies “insufficient incentives to encourage innovation.”²⁷ Administering rate-of-return regulation “is a difficult and complex process, even when done correctly and well.”²⁸ Rate-of-return regulation “does not serve to sharpen the competitiveness” of the industry and makes “the

²² *Competitive Carrier Order* ¶ 99.

²³ *Competitive Carrier Order* ¶¶ 6, 99.

²⁴ *Policy and Rules Concerning Rates for Dominant Carriers*, 5 FCC Rcd 6786, ¶ 22 (1990) (“1990 Order”).

²⁵ *1990 Order* ¶ 1.

²⁶ *1990 Order* ¶ 29.

²⁷ *Policy and Rules Concerning Rates for Dominant Carriers*, 4 FCC Rcd 2873, ¶ 100 (1989) (“1989 Order”).

²⁸ *1989 Order* ¶ 31.

process of championing consumer interests” much harder.²⁹ Based on these considerations, the FCC concluded that rate-of-return “is not the best” form of regulation to drive carriers to become more efficient and productive.³⁰ As the D.C. Circuit has explained:

Under a price cap scheme, the regulator sets a maximum price, and the firm selects rates at or below the cap. Because cost savings do not trigger reductions in the cap, the firm has a powerful profit incentive to reduce costs. Nor is there any reward for shifting costs from unregulated activities into regulated ones, for the higher costs will not produce higher legal ceiling prices. Finally, the regulator has less need to collect detailed cost data from the regulated firms or to devise formulae for allocating the costs among the firm’s services.³¹

Petitioners’ reliance on the FCC’s data collection under the *ICS Order and FNPRM* ignores well-established FCC precedent, which disfavors the collection of individual company data in the rate-making process.

22. Third, the Department has already determined that there is a better method for setting a cap than conducting a detailed cost-based analysis, which may be outdated next month or next year.³² In 1998, the Department adopted the per-call surcharge of \$3.00.³³ In setting the surcharge, the Department looked to rates charged by companies in 33 states and held that it could “reasonably rely on the costs of these carriers as a proxy for the costs of inmate callings

²⁹ 1990 Order ¶¶ 23, 28.

³⁰ 1990 Order ¶¶ 29, 30.

³¹ *National Rural Telecom Ass’n v. FCC*, 988 F.2d 174, 178 (D.C. Cir. 1993).

³² Rate caps are also easy to administer because they do not require that rates be justified by reference to each provider’s individual costs, and thus do not require the Department to gather “detailed cost data from the regulated firms,” or “formulae for allocating the costs among the firm’s services.” *National Rural Telecom Ass’n v. FCC*, 988 F.2d 174, 178 (D.C. Cir. 1993).

³³ D.P.U./D.T.E. 97-88/97-18 (Phase II), *Investigation by the Department of Telecommunications and Energy on Its Own Motion regarding (1) Implementation of Section 276 of the Telecommunications Act of 1996 relative to Public Interest Payphones, (2) Entry and Exit Barriers for the Payphone Marketplace, (3) New England Telephone and Telegraph Company d/b/a NYNEX’s Public Access Smart-Pay Line Service, and (4) the Rate Policy for Operator Services Providers*, Order on Payphone Barriers to Entry and Exit, and OSP Rate Cap, at 10 (Apr. 17, 1998) (“1998 Order”).

services providers in Massachusetts.” *1998 Order* at 10 (finding that using rate caps “provides an administratively efficient way for the Department to ensure that these rates remain reasonable”). The Department’s use of rates charged in other states as a proxy was an efficient method for the agency to determine the surcharge and was based on an implicit holding that it was unnecessary for ICS providers in Massachusetts to submit detailed ICS cost analyses in order for the DTC to set a reasonable per-call surcharge. *See, e.g.*, D.P.U. 94-50, *NYNEX Price Cap* (May 12, 1995) (finding “one of the primary benefits of price cap regulation is that it renders unnecessary certain regulatory reviews, such as cost allocation and prudence inquiries, that have been fundamental to [rate of return] regulation”); D.P.U. 93-98, *Regulatory Treatment of Telecommunications Common Carriers* (May 11, 1994) (“current market forces, statutory requirements, and the Department’s tariff regulations, notice requirements, and consumer complaint resolution process, are sufficient to ensure not only that rates are just and reasonable but that there is adequate consumer protection for interexchange, competitive access, and [alternative operator services], absent the regulation of entry into these markets”); D.P.U. 94-184, *IntraLATA and Local Exchange Competition* (Aug. 29, 1996) (stating that competitors “may file tariff revisions for existing and new service offerings with minimal cost-support documentation”).

23. The Department’s ruling is consistent with the decision in D.P.U. 91-19, *In re Value-Added Communications, Inc.*, 126 P.U.R. 4th 209, 217, 1991 WL 501897 (Mass. D.P.U. 1991), which based intrastate AOS rates on dominant carrier rates after considering the “time, expense, and administrative burden involved in presenting a rate case.” *See also* D.P.U. 93-76, *In re West Coast Telecommunications, Inc.*, 1993 WL 391172, at *2 (Mass. D.P.U. July 16, 1993).

24. In the *Interlocutory Order*, the Department explained that “the rate-setting mechanism adopted for ICS in the 1998 Order is an incentive regulatory scheme. ‘Any definition of reasonable compensation under an incentive regulatory scheme must be broad enough to allow a utility that is achieving above-average efficiencies to earn more than has been defined as a ‘fair return’ under [rate of return] regulation.’ The Department designed the surcharge to allow ICS providers recovery of legitimate additional costs associated with ICS and to encourage ICS providers to improve productivity and reduce costs through advances in technology similar to the benefit a service provider may receive in a competitive marketplace.”³⁴ According to the Department, “[w]hether an ICS provider treats those extra earnings as profit, or utilizes them to improve its bidding position to provide ICS through offering lower rates or more generous commissions to a correctional facility, is at the discretion of the provider.”³⁵

25. In short, there is no reason for Petitioners to demand access to virtually all of GTL’s financial records in Massachusetts in order for the Department to review the current surcharge cap and adjust it, if necessary, based on prevailing current rates for dominant carriers in other jurisdictions. None of Petitioners’ Interrogatories or Document Requests will provide the Department with the information needed to “examine the changes to the ICS industry and whether to maintain the per-call surcharge and/or adjust the maximum rate permitted per call.”³⁶ This motion should therefore be denied as the extensive information sought by Petitioners would not “permit the parties and the Department ‘to gain access to all relevant information in an efficient and timely manner.’” D.T.E. 01-70, *In re Fiber Technologies Networks, L.L.C.*, 2002

³⁴ *Interlocutory Order* at 23-24 (citation omitted).

³⁵ *Interlocutory Order* at 24.

³⁶ *Interlocutory Order* at 26.

WL 32101642, at *15 (Mass. D.T.E. Dec. 24, 2002) (quoting 220 C.M.R. § 1.06(6)(c)(1)). Such a ruling would be consistent with the *Interlocutory Order*, which stated that “[t]he Department has limited resources and must be judicious in its exercise of investigatory authority.”³⁷

C. Correctional Facility Commissions and Interstate Rates are Outside the Scope of this Proceeding

26. A number of Petitioners’ requests seek information regarding commissions that GTL is required to pay to correctional facilities. GTL objected to those requests as the Department has no jurisdiction over correctional facilities’ right to seek site commissions, and therefore are outside the scope of this proceeding. *See Breest v. Dubois*, Civ. A. No. 94-1665H, 1997 WL 449898 (Mass. Super. Ct. July 28, 1997) (holding that the Massachusetts Department of Corrections (“DOC”) has the authority to enter into contracts requiring commissions on inmate calls because the DOC is responsible for making and entering into any contracts and agreements necessary for the performance of its duties, which includes maintaining security, safety and order at all state correctional facilities). The Department acknowledged this jurisdictional divide during the public hearing on this matter conducted in July 2012. During the hearing a member of the public asked a question about commissions, and the hearing officer responded: “It is not appropriate for me to answer that question particularly since the Department of Telecommunications and Cable does not issue rules and does not run the prison system.”³⁸

³⁷ *Interlocutory Order* at 12.

³⁸ 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*, Hearing Transcript at 164 (July 19, 2012).

27. Payment of commissions was not one of the “additional costs” identified by the Department. The inmate calling rates established by the Department in 1998 have nothing to do with any commission that GTL may be required to pay to a correctional facility. Any commissions GTL is required to pay to a correctional facility come out of GTL’s profits. The Department has no jurisdiction over the payment of commissions, and thus the Department’s rate caps only establish what is deemed to be the just and reasonable rate for inmate calling services in Massachusetts. GTL’s commission costs are not “passed on” to customers – customers are charged in accordance with the rates established by the Department to be the just and reasonable rate for inmate calling services. Discovery requests regarding commissions therefore are irrelevant to this proceeding.

28. GTL also objected to requests relating to the provision of interstate inmate calling services because such services are outside the Department’s jurisdiction. *See* G.L. c. 159, § 12; *see also* D.T.E. 03-60, 04-73, Consolidated Order Dismissing Triennial Review Order Investigation and Vacating Suspension of Tariff M.D.T.E. No. 17 (Dec. 15, 2004) (“Under Massachusetts law, the Department has the power of ‘general supervision and regulation of, and jurisdiction and control’ over the ‘transmission of intelligence within the commonwealth by electricity, by means of telephone lines or telegraph lines or any other method or system of communication.’ This jurisdiction extends to services ‘when furnished or rendered for public use within the commonwealth’ by ‘common carriers.’ The Department exercises jurisdiction over such intrastate telecommunications services, *i.e.*, furnished within the commonwealth, to the full extent not preempted by federal law.”).

IV. PETITIONERS' SPECIFIC ARGUMENTS ARE INSUFFICIENT

29. Petitioners move to compel further responses on numerous interrogatories and document requests, but, as demonstrated above with Interrogatory 13, Petitioners provide incomplete and/or misleading information to the Department regarding GTL's responses. At the same time, Petitioners' arguments consist of little more than conclusory allegations that do not justify the wide-ranging discovery Petitioners seek. In addressing each of the specific interrogatories and document requests below, GTL incorporates its General Objections, *supra*, as well as the specific responses and objections previously provided to Petitioners, and states as follows:

A. Responses on Specific Interrogatories

Interrogatory 1:

Petitioners provide the Department with only part of the picture regarding Interrogatory 1. They do not mention that GTL also objected to this Interrogatory because “[q]uestions regarding fixed rates, rates per minute, and site commission percentages are beyond the scope of this proceeding.” Furthermore, GTL stated: “The \$3.00 cap on the per-call surcharge does not vary based on the type of intrastate call (local, intrastate intraLATA, intrastate interLATA) or the length of the call. In addition, questions concerning interstate inmate calling services are beyond the scope of this proceeding.”

Notwithstanding these objections, GTL identified the parties to its contracts with government authorities to provide inmate calling services in Massachusetts and identified the tariffs in which information regarding surcharges is located.

Petitioners did not identify any specific information that they are seeking and have provided no justification for moving to compel on this Interrogatory other than to allege without

support that it is “relevant to the legitimacy of the surcharge as well as the impact of the surcharge on consumers.” They offered no argument on why they were asking about fixed rates, rates per minute, site commission percentages or interstate calls and no acknowledgement that they had been provided information on surcharges.

Interrogatory 2:

Petitioners provide only partial information with regard to Interrogatory 2. They do not tell the Department that GTL specifically objected to this Interrogatory because “[q]uestions relating to gross receipts and commissions paid are beyond the scope of this proceeding as they do not relate to ‘the per-call surcharge assessed by ICS providers’ or any of the other three areas of inquiry identified in the *Interlocutory Order*.” GTL also stated that the cap on the per-call surcharge does not vary based on the type of intrastate call (local, intrastate intraLATA, intrastate interLATA) being made by the inmate and questions concerning interstate inmate calling services are beyond the scope of this proceeding.

Petitioners offer no argument why the requested material is relevant except to make a blanket statement that it is “directly relevant to the legitimacy of the surcharge as well as the impact of the surcharge on consumers” and to the tariffed service and other fees. Petitioners do not explain why gross receipts, commissions or interstate calls are relevant to this proceeding.

Interrogatory 3:

Petitioners state that GTL provided a redacted response to this Interrogatory, but that is Petitioners’ own fault. On April 29 2014, GTL provided Petitioners with a draft Non-Disclosure Agreement that would have allowed GTL to provide the redacted information to Petitioners. Petitioners still have not responded to that draft. Petitioners also claim in their description of GTL’s response that GTL “fails to answer the interrogatory as to the average length of the calls

and total number of minutes used.” Petitioners, however, do not tell the Department that GTL objected to the request because “[q]uestions regarding average call length and the total number of minutes used are beyond the scope of this proceeding” and the surcharge cap “does not vary based on the type of intrastate call (local, intrastate intraLATA, intrastate interLATA), the number of calls, the length of the call, or the total number of minutes used” and questions concerning interstate inmate calling services are beyond the scope of this proceeding.

Petitioners repeat their unsupported arguments that the interrogatory is relevant to the legitimacy of the surcharge as well as the impact of the surcharge on consumers and that call volume in Massachusetts facilities is “essential” to the Department’s investigation of rates as it allegedly “determines the marginal costs and profitability of ICS.” Petitioners, however, offer no support for their assertions or any explanation of how marginal costs and profitability are relevant to this limited proceeding. The Department has not placed limits on profitability and has instead acknowledged in regard to surcharges that “[w]hether an ICS provider treats those extra earnings as profit, or utilizes them to improve its bidding position to provide ICS through offering lower rates or more generous commissions to a correctional facility, is at the discretion of the provider.”³⁹

Interrogatory 4:

GTL objected to this Interrogatory because questions concerning minimum commissions guaranteed and commissions paid are beyond the scope of this proceeding, as discussed above. During the public hearing in this matter, the Department acknowledged that commissions are outside its jurisdiction when the hearing officer told a member of the public in response to a

³⁹ *Interlocutory Order* at 24.

question about commissions that “the Department of Telecommunications and Cable does not issue rules and does not run the prison system.”⁴⁰

Interrogatory 5:

GTL objected to this Interrogatory because questions concerning revenue received and commissions paid are beyond the scope of this proceeding, as discussed above. As the Department held in the *Interlocutory Order*, “The Department designed the surcharge to allow ICS providers recovery of legitimate additional costs associated with ICS and to encourage ICS providers to improve productivity and reduce costs through advances in technology similar to the benefit a service provider may receive in a competitive marketplace. 1998 Order at 9. Whether an ICS provider treats those extra earnings as profit, or utilizes them to improve its bidding position to provide ICS through offering lower rates or more generous commissions to a correctional facility, is at the discretion of the provider.”⁴¹

Interrogatory 6:

GTL provided Petitioners with information on other “unique characteristics associated with providing inmate calling services,” including (1) bad debt expense for collect calling; (2) credit card and transaction processing fees; (3) special equipment, including service maintenance and repair of inmate phones; (4) capital expenditures; (5) commissions required to be paid under state law or correctional facility contracts; (6) data storage; (7) on-site personnel and human resources support; (8) software, including web-portals for use by correctional facilities and web-based payment systems for friends and family; (9) voice analysis or biometrics; (10) cell phone

⁴⁰ 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*, Hearing Transcript at 164 (July 19, 2012).

⁴¹ *Interlocutory Order* at 24 (emphasis added).

detection tools; (11) maintenance of prepaid accounts and inmate PIN numbers; and (12) management and movement of inmate trust funds held by a commissary (or other third-party that manages inmate trust funds).

GTL, however, objected to this Interrogatory, in part, because it seeks confidential information and “[q]uestions regarding ‘all’ categories of costs associated with providing inmate calling service in Massachusetts are beyond the scope of this proceeding.” Petitioners respond with a blanket allegation that this information is relevant without providing any specific explanation or support to justify Petitioners’ requests for per facility costs for items such as “financial processing” or “back office administrative costs” or “research and development.” Questions, such as this one, are nothing more than impermissible fishing expeditions. *See, e.g., Alphas Co. v. Kilduff*, 888 N.E.2d 1003, 1012 (Mass. App. Ct.) (affirming summary judgment and noting that “[p]arties may not ‘fish’ for evidence on which to base their complaint in hopes of somehow finding something helpful to their case in the course of the discovery procedure”) (citation and internal quotation marks omitted), *review denied*, 452 Mass. 1105 (2008).

Interrogatory 7:

Petitioners requested an itemization of expenses associated with completing collect, debit and advance pay calls. GTL objected to this Interrogatory, in part, because the requested information is not relevant because it is beyond the scope of this proceeding. Notwithstanding its objections, GTL explained that it does not itemize its expenses. It is therefore unclear why Petitioners are pursuing this Interrogatory vis-à-vis GTL, particularly as Petitioners’ argument is not directed at GTL. Petitioners’ claim that they gave Respondents the option of providing aggregated cost data is belied by the actual wording of the Interrogatory, which states “[t]o the extent that it is not possible to itemize your expenses, please describe *in detail each component*

of the aggregate costs to you of completing such calls.” (emphasis added) Describing in detail each component necessarily requires that the costs be disaggregated.

Interrogatory 8:

Interrogatory 8 seeks information regarding equipment in each Massachusetts correctional facility. GTL objected to this request, in part, because it seeks information that is confidential, is in the purview of the Massachusetts Department of Corrections, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objected to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions regarding the equipment used by GTL to store, record and monitor inmate telephone calls are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. The *Interlocutory Order* also dismissed Petitioners’ request to investigate “the availability and upkeep of telecommunications equipment at correctional facilities.”⁴² Petitioners’ wish that the Department investigate the make and model of every recording device used in every Massachusetts correctional facility highlights the inefficiency of a cost-based ratings model, and supports the Department’s decision to reject such a method to set caps.

Interrogatory 10:

GTL objected to this Interrogatory, in part, because the amount of receivables not collected in a particular year, for a particular contract, for a particular type of call, is not relevant to this proceeding. In addition, the request is overly broad and unduly burdensome, seeks

⁴² *Interlocutory Order* at 2

confidential information, seeks information that is not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory 11:

GTL objected to this request, in part, because questions regarding the number of prepaid or debit accounts, refunds, and deposits are beyond the scope of this proceeding. GTL also objected because the information sought is publicly available. Notwithstanding its objections, GTL responded that “the process used to deposit funds into a prepaid account is publicly available in GTL’s Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL’s website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff’s Department and Correctional Facility website, and on the Norfolk County Sheriff’s Office website.” GTL then supplemented its response by providing a list of publicly available websites where information regarding the process used to deposit funds into a prepaid account is available, including:

<https://www.offenderconnect.com/portal>
<http://www.gtl.net/friends-and-family-information/>
<http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link (GTL)/Inmate Telephone Services)
<http://www.mass.gov/eopss/agencies/doc/advancepay.html>
<http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepayquestions.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>
http://www.pcsdma.org/Inmate_Information.asp
<http://norfolksheriff.com/friends-and-family-of-inmates/>

GTL has thus supplied the relevant information requested.

Interrogatory 12:

Petitioners claim that “GTL’s only response to the request is that the information is publicly available.” That is incorrect. Notwithstanding GTL’s objections to Interrogatory, GTL responded that “information regarding the process used to refund unused funds from prepaid accounts is publicly available in GTL’s Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL’s website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff’s Department and Correctional Facility website, and on the Norfolk County Sheriff’s Office website.” GTL then provided a list of the websites, including:

<https://www.offenderconnect.com/portal>
<http://www.gtl.net/friends-and-family-information/>
<http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link (GTL)/Inmate Telephone Services)
<http://www.mass.gov/eopss/agencies/doc/advancepay.html>
<http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepayquestions.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>
http://www.pcsdma.org/Inmate_Information.asp
<http://norfolksheriff.com/friends-and-family-of-inmates/>

There is no indication in Petitioners’ motion that they have even looked at the information provided by GTL before filing their motion to compel.

Interrogatory 13:

As noted above, Petitioners provide the Department with a single sentence description of GTL’s response to Interrogatory 13, when GTL’s response (which includes the general

objections) is almost five single-spaced pages long. Petitioners also seek information on commissions, which as discussed above, is not part of this proceeding.

Interrogatory 15:

According to the Petitioners, “GTL repeats its general objections nos. 1, 3 and 8 and further objects that the Interrogatory is overly broad, unduly burdensome, not reasonably calculated to lead to discovery of admissible evidence and not relevant to the subject matter of the proceeding. Without waiving its objections, *GTL further answers by generally describing the complaint process.*” (emphasis added). What GTL actually said was:

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome, is not reasonably calculated to lead to the discovery of admissible evidence, and seeks information that is not relevant to the subject matter of this proceeding. Any questions not limited to service quality and billing practices are beyond the scope of this proceeding as they do not relate to the four areas of inquiry identified in the *Interlocutory Order*. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

GTL takes complaints regarding the quality of its inmate calling services very seriously. GTL’s Massachusetts tariff, for example, states that any disputed charges “should be received orally or in writing by [GTL] as soon as possible” so that GTL can “promptly investigate and advise the Customer as to its findings concerning disputed charges.” Global Tel*Link Corporation, M.D.T.E. Tariff No. 2, § 2.10.2 (effective Apr. 30, 2005). GTL’s tariff further indicates that adjustments will be made if “circumstances exist which reasonably indicate that such changes are appropriate.” *Id.*

Individuals using GTL’s services have numerous ways to contact GTL. GTL’s contact information for its billing and customer service departments is included on customer bills for those customers placing collect call charges on their local exchange carrier bill, and is also available on GTL’s website. To ensure inmates have access to information regarding GTL’s services, GTL makes posters available in corrections facilities, which can be hung in each individual inmate calling location. The poster provides detail on the applicable call rates, instructions on how to place a call, and contact information for lodging complaints and inquires. GTL also employs an on-site administrator that can provide inquiring inmates with additional information to resolve complaints regarding the inmate calling system.

When issues regarding the service quality of an inmate call are brought to GTL's attention (either from the correctional facility, the prisoner, or the prisoner's family or friends), GTL reviews the call detail record and/or the recording of the telephone call at issue. Based on that investigation, GTL determines whether a credit or refund is warranted for that particular call or whether there is a larger service issue to be remedied. Non-specific claims such as "connection problems" and "customer service problem," however, do not provide adequate information that would allow GTL to address a specific service quality issue with a particular telephone call. GTL encourages informal attempts to resolve complaints at the company-level in the first instance.

When customers request to be transferred to a higher level due to not being able to get their issue resolved by a customer service agent, GTL has a dedicated staff of experienced "escalation" agents who can assist the customer. If, in the rare instance, an escalation agent is not able to completely satisfy the customer's concern, they will elevate the issue to a call center supervisor for resolution. Customer service and escalation agents, along with call center supervisors, notate all customer contact detail in GTL's "CARES" customer service application. The CARES system contains a customer's call history, including transaction history, invoice history, and account notations outlining and detailing all GTL interaction with that customer. The information is maintained on a per account or billing telephone number basis.

Although GTL's customer service agents have powerful research tools available to them to resolve concerns, when they encounter an issue that requires further research, they submit electronic research forms with all the details of the issues to an experienced resolution team who performs the additional verification needed to solve the issue. If there is an issue that requires technical assistance, this team creates internal "action" to the technical group(s) that can provide the proper support.

Complaints filed at the Federal Communications Commission ("FCC"), state public utility commission ("PUC"), or Better Business Bureau ("BBB"), and other formal complaints are handled by a dedicated billing escalations group and are tracked by GTL's "MRit" system. This system tracks complaints by reference number, type of complaint (FCC, PUC, consumer, etc.), category, and correctional facility. The system affords GTL the ability to summarize the complaint and provide specific details concerning its nature. The MRit system makes it possible to filter complaints by agency, internal group, specific categories, and facility, so that reporting can be as general or specific as needed.

Without waiving its objections, GTL completely answered this Interrogatory, and Petitioners' motion is inappropriate and misleading.

Interrogatory 16:

The *Interlocutory Order* specifically excluded from this proceeding questions about the “availability and upkeep of telecommunications equipment at correctional facilities.” Despite that clear mandate, Petitioners served an Interrogatory about “broken telephone sets.” Now, in their motion to compel, Petitioners state that “perhaps” that question was not relevant. In other words, Petitioners ignored the *Interlocutory Order* and still refuse to admit their Interrogatory was not relevant.

Petitioners also note that GTL provided a “redacted list” of complaints. As mentioned above, on April 29, 2014 GTL sent Petitioners a draft Non-Disclosure Agreement regarding confidential information, but Petitioners never responded.

Interrogatory 19:

Without waiving its objections, GTL responded to this duplicative Interrogatory by referring Petitioners to its answers to Interrogatories 15 and 16, which include information about the company’s management of complaints received about billing issues. Petitioners’ argument is therefore incorrect.

Interrogatory 20:

GTL objected to this wide-ranging Interrogatory about systems and processes, which sought information that was either produced in response to other Interrogatories or is not relevant to this proceeding. Questions regarding financial and/or margin performance are beyond the scope of this proceeding as are questions regarding technical and network performance because “the availability and upkeep of telecommunications equipment at correctional facilities” was excluded by the *Interlocutory Order*. The fact that Petitioners did not receive an unredacted

version of GTL's response is a direct result of their refusal to respond to GTL's draft Non-Disclosure Agreement.

Interrogatory 21:

This Interrogatory is improper as it seeks information that is confidential and not relevant to this proceeding. Petitioners offer no good reason for obtaining information about GTL's "budgetary process" and how GTL's "financial goals" and actual results by year are relevant to the narrow scope of this proceeding. Instead Petitioners rely on unsupported conjecture about what could happen in the contracting process. The Department should deny Petitioners' motion to compel GTL to respond to this obvious fishing expedition.

Interrogatory 22:

This Interrogatory is improper as it seeks information regarding reports and analysis "created to report profitability to management" that are confidential and not relevant to this proceeding. Petitioners offer no good reason for this Interrogatory and instead rely on unsupported conjecture about what the documents "could" show, but Petitioners ignore the fact that profitability is not one of the subjects of this proceeding identified in the *Interlocutory Order* and incentive rate cap regulation is not based on profitability. The Department therefore should not condone this obvious fishing expedition.

Interrogatory 23:

In addition to GTL's other objections, this Interrogatory is improper as it seeks information that is not relevant to this proceeding. Petitioners offer no good reason for seeking information regarding "enforcement actions or investigations against GTL by other public utility commissions from 2009 to present." Instead Petitioners rely on unsupported conjecture about what could be relevant. The Department should deny Petitioners' motion to compel GTL to

respond to this obvious fishing expedition, particularly where Petitioners admit that much of this information likely is public. *See, e.g., Roman Catholic Bishop v. Travelers Casualty and Surety Co.*, 23 Mass. L. Rptr. 524, 2008 WL 650409, at *4, *6 (Super. Ct. 2008) (holding that State Police do not need to produce material that is publicly available); *Commonwealth v. Clark*, 967 N.E.2d 650 (Table), 2012 WL 1867650, at *1 n.1 (Mass. App. Ct.) (“The bulk of the information [the party] sought . . . is publicly available, and so no court order was necessary to obtain it.”), *review denied*, 463 Mass. 1103 (2012).

Interrogatory 24:

GTL objected to this Interrogatory, in part, because GTL’s gross and net earnings derived from the provision of inmate calling services to the facilities in Massachusetts, including a comparison of GTL’s gross and net earnings derived from the provision of inmate calling services in other states, are beyond the scope of this proceeding as they do not relate to the four areas of inquiry identified in the *Interlocutory Order*. Petitioners respond with conclusory allegations that it is relevant, but provide no support for their claims.

Interrogatory 25:

As noted above, the *Interlocutory Order* specifically excluded from this proceeding questions about the “availability and upkeep of telecommunications equipment at correctional facilities.”⁴³ Despite this ruling, Petitioners seek information about telephone installations, service calls, and replacement of telephone units, all of which are barred by the *Interlocutory Order*. Petitioners attempt to recast their Interrogatory to avoid the *Interlocutory Order*’s

⁴³ *Interlocutory Order* at 2.

restrictions, but the fact remains that Interrogatory 25 is barred by the *Interlocutory Order* as it addresses availability and upkeep of telecommunications equipment at correctional facilities.

B. Responses on Specific Document Requests

Document Request 1:

GTL provided Petitioners with copies of the tariffs identified in the Interrogatories. The other information requested is either publicly available (*see* the lists of web sites that GTL provided to Petitioners) or irrelevant. In particular, GTL objected to producing copies of the contracts identified in GTL Response to Interrogatory No. 1 because the contracts are not relevant to an inquiry into the per-call surcharge assessed by ICS providers; the tariffed service and other fees assessed by ICS providers; the telephone service quality provided by ICS providers; and the billing practices of ICS providers and do not contain information pertaining to the four areas of inquiry identified in the *Interlocutory Order*.

It also is immaterial to a determination of the relevance of this document request that Petitioners produced documents from third-parties in order to respond to GTL's discovery requests. Further, it is disingenuous for Petitioners to argue that they "went to the trouble and expense of producing all the documents they had obtained" when nearly 40 percent of the Petitioners did not even submit a response to GTL's discovery requests, much less produce any documents.

Document Request 2:

GTL objected to this request, but without waiving its objection, stated that it would produce such documents if any are located, except where such documents are publicly available, are beyond the scope of this proceeding, or are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or

immunity that makes such information non-discoverable. Petitioners therefore are wasting the Department's time with a motion to compel on this request because there is nothing to compel.

Document Request 3:

GTL objected to this request both because it is not reasonably calculated to lead to the discovery of admissible evidence and because it is unclear what Petitioners meant by a document that "defines . . . current corporate and security quality goals." Despite GTL's objection and request for clarification, Petitioners still do not define what these terms mean and instead make a blanket statement that the request is not vague or ambiguous. If Petitioners cannot – or will not – explain what their request means, GTL should not be compelled to produce documents in response to that request. *See Cipolleta v. Sharp*, 13 Mass. L. Rptr. 483, 2001 WL 914526, at *3 (Super. Ct. 2001) (denying motion to compel production of documents where subpoena was unduly vague, overbroad, not limited in scope to matters that are relevant to the subject matter involved in the pending action or information that is reasonably calculated to lead to the discovery of admissible evidence); *Nylen v. Dalton*, 1 Mass. L. Rptr. 572, 1994 WL 879573 (Super. Ct. 1994) (granting motion for protective order in part where document requests were found overbroad and too vague).

Document Request 4:

GTL objected to this request as it seeks documents that are not relevant, but without waiving its objections, GTL stated that it would produce documents concerning policies regarding quality of ICS telephone service provided by GTL including dropped calls, if any are located, except where such documents are publicly available, are beyond the scope of this proceeding, or are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such

information non-discoverable. Petitioners are wasting the Department's time with a motion to compel on this request because there is nothing to compel.

Document Request 5:

GTL objected to this request, in part, because the requested documents concerning the amount of revenues and expenses incurred in relation to each year of each contract identified in response to Interrogatory No. 1 such as financial statements, budget performance reports, management reports, and any documentation in relation to the payment of site commissions are not relevant to “the per-call surcharge assessed by ICS providers” or the other three areas of inquiry identified in the *Interlocutory Order*. Petitioners offer no new support for their request and just cite to previous sections in their motion, which GTL has already addressed, *supra*, specifically that revenues, expenses and profits are not relevant under Department precedent and that site commissions are outside the scope of this proceeding as they are not under the jurisdiction of the Department.

Document Request 6:

GTL objected to this far-reaching request in part because it is vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. As discussed above, cost information is not needed for the Department to make a determination on a surcharge cap. Also this request, which seeks “any document” listing or describing costs is vastly overbroad and would flood the Department with irrelevant material in direct opposition to the Department's statement that the “purpose of discovery is to permit the parties and the Department ‘to gain access to all relevant information in an efficient and timely

manner.” D.T.E. 01-70, *In re Fiber Technologies Networks, L.L.C.*, 2002 WL 32101642, at *15 (Mass. D.T.E. Dec. 24, 2002) (quoting 220 C.M.R. § 1.06(6)(c)(1)).

Document Request 7:

GTL responded to this request as follows:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, #11, and #12. GTL further objects to this Request on the grounds that this Request is vague, ambiguous, overly broad and unduly burdensome, that is confidential and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Request on the grounds it seeks information not relevant to the subject matter of this proceeding. Documents relating to amounts collected for fees and the disposition of such fees once they have been collected are not relevant to “the per-call surcharge assessed by ICS providers” or the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. GTL further objects to this Request on the grounds that it seeks information that is publicly available in GTL’s Massachusetts tariffs (Global Tel*Link Corporation Massachusetts D.T.C. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL’s website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff’s Department and Correctional Facility website, and on the Norfolk County Sheriff’s Office website.

GTL provides the following publicly available websites where documents may be found regarding the fees for inmate calling services in Massachusetts:

<https://www.offenderconnect.com/portal>
<http://www.gtl.net/friends-and-family-information/>
<http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link (GTL)/Inmate Telephone Services)
<http://www.mass.gov/eopss/agencies/doc/advancepay.html>
<http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepayquestions.html>

<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>
http://www.pcsdma.org/Inmate_Information.asp
<http://norfolksheriff.com/friends-and-family-of-inmates/>

The amounts collected and the disposition of those fees is not relevant to this proceeding because as the Department has held “[w]hether an ICS provider treats those extra earnings as profit, or utilizes them to improve its bidding position to provide ICS through offering lower rates or more generous commissions to a correctional facility, is at the discretion of the provider.”⁴⁴ GTL therefore fully responded to this request.

Document Request 8:

Petitioners sought documents that “directly or indirectly” discuss “performance” of “provision of inmate services.” GTL objected that this request is duplicative, vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the four areas of inquiry identified in the *Interlocutory Order*. In response, Petitioners offer no explanation of what is sought and made no effort to limit their broadly worded request. Instead, they offer only conclusory allegations that GTL’s “financial performance” and other “performance assessments” are relevant. These allegations are insufficient to justify this fishing expedition, particularly where costs, revenue and profits are not the basis on which surcharge caps have been instituted in Massachusetts.

Document Request 9:

The *Interlocutory Order* limited this proceeding to certain specific topics. It did not authorize Petitioners to investigate the “overall profitability” of GTL’s operations. This request is inappropriate. Petitioners ignore the fact that profitability is not one of the subjects of this

⁴⁴ *Interlocutory Order* at 24.

proceeding identified in the *Interlocutory Order* and incentive rate cap regulation is not based on profitability. Petitioners offer no good reason why they should be allowed access to such confidential and irrelevant information.

Document Request 10:

As discussed above, commissions paid to the correctional facilities are not the subject of this proceeding, and this request for any and all documentation comparing the total amounts of commissions that were paid in Massachusetts in 2011, 2012, 2013 and 2014 is therefore inappropriate.

Document Request 11:

GTL objected to this request in part because it is overly broad and unduly burdensome and because the terms “track,” “measure,” “quality performance,” “trouble reports,” and “other related quality assurance issues” are vague and ambiguous. As a result, this request appears to seek documents that are irrelevant to this proceeding. Petitioners offer only a chicken-and-egg response that they are “willing to attempt to clarify these terms” after a determination is made on relevance. But without clarification, it is impossible to tell whether this request is completely irrelevant, or merely duplicative. Moreover, it is inappropriate for Petitioners to seek an order compelling production of documents, without providing a clear statement of what documents they seek to compel. *See Cipolleta v. Sharp*, 13 Mass. L .Rptr. 483, 2001 WL 914526, at *3 (Super. Ct. 2001) (denying motion to compel where subpoena was unduly vague, overbroad, not limited in scope to matters that are relevant to the subject matter involved in the pending action or information that is reasonably calculated to lead to the discovery of admissible evidence.

Document Request 13:

As discussed above, the Department has previously determined that a detailed cost-based analysis is not required to allow it to set a fair and reasonable surcharge cap. Petitioners therefore have no right to demand access to virtually all of GTL's financial records in Massachusetts. Such information is not required in order for the Department to review the current surcharge cap and adjust it, if necessary, based on prevailing current rates for carriers in other jurisdictions. Thus, Petitioners' request for "any and all documents" that calculate cost and revenue seeks irrelevant information in a manner that is overly broad and unduly burdensome given the scope of this proceeding.

Document Request 14:

In the *Interlocutory Order*, the Department specifically excluded from this proceeding issues relating to the usage rate component of the ICS rate-setting mechanism. This request is simply a backdoor attempt to gain access to information that the Department has already ruled is irrelevant to this proceeding. Further, this information is not relevant as discussed above and because as the Department explained in the *Interlocutory Order*: "The Department designed the surcharge to allow ICS providers recovery of legitimate additional costs associated with ICS and to encourage ICS providers to improve productivity and reduce costs through advances in technology similar to the benefit a service provider may receive in a competitive marketplace. 1998 Order at 9. Whether an ICS provider treats those extra earnings as profit, or utilizes them to improve its bidding position to provide ICS through offering lower rates or more generous commissions to a correctional facility, is at the discretion of the provider."⁴⁵

⁴⁵ *Interlocutory Order* at 24.

Document Request 15:

Petitioners justify this request for reports of completed and billed minutes by claiming that they need those reports because call volume determines “the marginal costs and profitability of ICS.” But as has been discussed above, neither marginal costs nor profitability are relevant to this proceeding because the Department is not conducting an analysis of GTL’s profitability and the surcharge cap is not based on a detailed analysis of costs. GTL’s tariffs demonstrate that GTL currently charges customers at a rate at or significantly below the established cap.

Document Request 17:

This request is facially overbroad because it seeks all communications with Massachusetts governmental agencies or contractors that manage or supervise facilities concerning the provision of inmate calling services. The Department was very specific about the issues to be addressed in the proceeding, and Petitioners made no attempt to conform their request to the Department’s order. Petitioners should not be allowed to proffer a request that disregards the Department’s orders and then move to compel production of documents pursuant to that same improper, irrelevant and overbroad request.

Document Request 19:

GTL objected to this request in part because the term “conduct billing services” is vague and ambiguous. Petitioners had an opportunity in their motion to clarify the term, but chose not to do so. Instead, Petitioners argued, without support, that when the Department said that this proceeding would be limited to a few specific issues including “Respondents’ billing practices,” the Department meant to also investigate the practices of third party contractors. Petitioners, however, offer no support for such a far-reaching and burdensome interpretation.

Document Request 20:

Petitioners' statements in regard to Request 20 are emblematic of the deficiencies that run throughout their motion. Petitioners are required by the *Procedural Order* to set forth GTL's response to their requests. In this case, Petitioners *claim* that GTL responded as follows: "GTL repeats its general objections nos. 1, 3, 9, 10, 11 and 12 and further objects that the request is vague, ambiguous, overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, protected from disclosure or not relevant to these proceedings." Reading Petitioners' statement, it would appear that GTL did not respond to Petitioners' request, but that is not true. GTL's *actual response*, including its supplemental response, was:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, #11, and #12. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is publicly available or not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents regarding "promotional and marketing materials" are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney workproduct doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. GTL further objects to this Request on the grounds that it seeks information that is publicly available on GTL's website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff's Department and Correctional Facility website, and on the Norfolk County Sheriff's Office website.

GTL provides the following publicly available websites where promotional and marketing materials may be found regarding GTL's provision of inmate calling services:

<https://www.offenderconnect.com/portal>
<http://www.gtl.net/about-us/>
<http://www.gtl.net/about-us/press-and-news/>

<http://www.gtl.net/correctional-facility-services/>
<http://www.linkedin.com/company/global-tel-link>
<http://www.gtl.net/friends-and-family-information/>
<http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link(GTL)/Inmate Telephone Services)
<http://www.mass.gov/eopss/agencies/doc/advancepay.html>
<http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepayquestions.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>
http://www.pcsdma.org/Inmate_Information.asp
<http://norfolksheriff.com/friends-and-family-of-inmates/>

Petitioners should not be allowed to misrepresent GTL's response by withholding information from the Department, and then be rewarded by a motion to compel production of documents, particularly when GTL has already supplied information in response to the request.

CONCLUSION

For the above-described reasons, the Department should deny with prejudice Petitioners' Motion to Compel Responses of Global Tel*Link to Interrogatories and Requests for Production.

Respectfully submitted,

GLOBAL TEL*LINK CORPORATION



Dated: June 25, 2014

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CERTIFICATE OF SERVICE

I, Angela Fleming, certify that on this 25th day of June 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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ATTACHMENT A

Global Tel*Link Corporation's Opposition to Petitioners'
Motion to Compel Responses to Interrogatories and
Requests for Production filed May 30, 2014

D.T.C. 11-16

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*ADMITTED IN DC ONLY

May 29, 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 the **PUBLIC VERSION** of its Supplemental Responses and Objections to Petitioners' First Set of Interrogatories and Petitioners' First Set of Requests for Production of Documents. Three (3) copies of this submission have been sent to the Hearing Officer, and one copy has been mailed to each Department staff member listed on the service list per the Procedural Order issued February 27, 2014.

In addition, GTL has provided the Hearing Officer with the **CONFIDENTIAL VERSION** of its Supplemental Responses and Objections to Petitioners' First Set of Interrogatories and Petitioners' First Set of Requests for Production of Documents in a sealed envelope along with a CD-ROM, both of which are labeled "CONFIDENTIAL" in accordance with the requirements of the Procedural Order. GTL requests confidential treatment for the CONFIDENTIAL VERSION of its Supplemental Responses and Objections in accordance with its Motion for Confidential Treatment filed on April 29, 2014 in the above-referenced matter.

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

Respectfully submitted,

A handwritten signature in blue ink that reads "Chérie R. Kiser". The signature is fluid and cursive, with a large loop at the end of the last name.

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 Massachusetts Seeking)	D.T.C. 11-16
Relief from the Unjust and Unreasonable)	
Cost of Such Calls)	

**GLOBAL TEL*LINK CORPORATION'S
SUPPLEMENTAL RESPONSES AND OBJECTIONS TO PETITIONERS' FIRST SET
OF INTERROGATORIES AND PETITIONERS' FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Global Tel*Link Corporation (“GTL”), by and through its attorneys, hereby provides its Supplemental Responses to Petitioners’ First Set of Interrogatories (“Interrogatories”) and its Supplemental Responses to Petitioners’ First Set of Requests for Production of Documents (“Requests”). GTL incorporates by reference its General Objections and Specific Objections to the Interrogatories as set forth in Global Tel*Link Corporation’s Responses and Objections to Petitioners’ First Set of Interrogatories filed in the above-referenced docket on April 29, 2014. GTL also incorporates by reference its General Objections and Specific Objections to the Requests as set forth in Global Tel*Link Corporation’s Responses and Objections to Petitioners’ First Set of Requests for Production of Documents filed in the above-referenced docket on April 29, 2014.

In accordance with its offer to confer as stated in its initial Responses and Objections filed April 29, 2014, GTL initiated and participated in meet-and-confer sessions with Petitioners on May 20 and May 22, 2014. On May 27, 2014, GTL provided Petitioners with a list of publicly available websites at which certain information in response to Petitioners’ Interrogatories and Requests could be found. In response to the items raised by Petitioners

during the meet-and-confer sessions, GTL provides the following supplemental responses. GTL also updates the figures contained in response to Interrogatory No. 16, which have been designated by GTL as confidential pursuant to its Motion for Confidential Treatment filed April 29, 2014.

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

INTERROGATORY No. 9:

If you currently use live operators in the provision of inmate calling services in Massachusetts, how many and in what capacity are they used at each facility for which you provide ICS?

GTL Response to Interrogatory No. 9:

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence and this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions concerning the number of live operators GTL uses and the capacity in which live operators are used are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

“Operator” calls include automated, prepaid services like those offered to inmates and their friends and families by GTL and not solely those services with live operators. The federal definition of “inmate operator services” specifically includes “any automatic or live assistance to a consumer to arrange for billing or completion, or both” of a telephone call. 47 C.F.R. § 64.710(b)(3). Live operators are not used in the origination of calls by inmates, and generally are not permitted to be used under state law or correctional facility requirements. For example, the Massachusetts Department of Corrections Rules on Telephone Access and Use state that all inmate telephone calls must be made “utilizing an automated operator” (103 CMR 482.06(3)(a)). Live operators, however, are available as necessary for friends and family of an inmate.

GTL Supplemental Response to Interrogatory No. 9:

An inmate's friends and family have access to a live GTL customer service representative during the hours of 7am to 11pm (CST), Monday through Friday, and 8am to 7pm (CST) on Saturdays and Sundays (*see* <https://www.offenderconnect.com/learnmore/ContactUsGTL.jsp>). GTL utilizes more than 200 customer service representatives, which are located in five (5) separate call centers throughout the United States. Calls to GTL's customer service number from friends and family of a Massachusetts inmate could be directed to any one of the five call centers. An inmate's friends and family also may access automated customer support systems, which are available 24 hours a day, 7 days a week.

Person who will support GTL Response to Interrogatory No. 9:

Lauren Studebaker, Senior Vice President, Services, Global Tel*Link Corporation

INTERROGATORY No. 11:

For each contract identified in No. 1, please describe:

- a) The number of pre-paid or “debit” accounts for each year from January 2011 to present;
- b) the process used to deposit funds into a pre-paid account. If the process used is different depending on the source of the funds (cash, credit card, western union, check) please explain the process for each separately;
- c) the costs attributable to processing deposits to pre-paid accounts;
- d) the costs attributable to processing refunds from pre-paid accounts;
- e) the dollar mount [sic] that was actually refunded to Massachusetts consumers for each calendar year from January 2011 to the present.

GTL Response to Interrogatory No. 11:

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, overly broad and unduly burdensome, seeks confidential information, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory because it seeks information that is not relevant to the subject matter of this proceeding. Questions regarding the number of prepaid or debit accounts, refunds and deposits are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Interrogatory because the process used to deposit funds into a prepaid account is publicly available in GTL’s Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL’s website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff’s Department and Correctional Facility website, and on the Norfolk County Sheriff’s Office website.

GTL Supplemental Response to Interrogatory No. 11:

GTL provides the following publicly available websites where information regarding the process used to deposit funds into a prepaid account is available:

<https://www.offenderconnect.com/portal>

<http://www.gtl.net/friends-and-family-information/>

<http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link (GTL)/Inmate Telephone Services)

<http://www.mass.gov/eopss/agencies/doc/advancepay.html>

<http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>

<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>

<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-questions.html>

<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>

http://www.pcsdma.org/Inmate_Information.asp

<http://norfolksheriff.com/friends-and-family-of-inmates/>

Person who will support GTL Response to Interrogatory No. 11:

Brian Hackett, Regulatory Affairs Manager, Global Tel*Link Corporation

INTERROGATORY No. 12:

Please describe the process used to refund unused funds from pre-paid accounts to consumers. If the refunds are unclaimed or otherwise not processed, please describe how these funds are accounted for (e.g. retained as income, transferred to the State's unclaimed funds program) and whether or not commissions are paid on income generated from the unclaimed funds.

GTL Response to Interrogatory No. 12:

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is confidential, that is not reasonably calculated to lead to the discovery of admissible evidence, and that is not relevant to the subject matter of this proceeding. Questions regarding the process used to refund unused funds are beyond the scope of this proceeding as they do not relate to "the per-call surcharge assessed by ICS providers" or any of the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Interrogatory because information regarding the process used to refund unused funds from prepaid accounts is publicly available in GTL's Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL's website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff's Department and Correctional Facility website, and on the Norfolk County Sheriff's Office website.

GTL Supplemental Response to Interrogatory No. 12:

GTL provides the following publicly available websites where information regarding the process used to refund unused funds from prepaid accounts is available:

<https://www.offenderconnect.com/portal>
<http://www.gtl.net/friends-and-family-information/>

<http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link (GTL)/Inmate Telephone Services)
<http://www.mass.gov/eopss/agencies/doc/advancepay.html>
<http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-questions.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>
http://www.pcsdma.org/Inmate_Information.asp
<http://norfolksheriff.com/friends-and-family-of-inmates/>

Person who will support GTL Response to Interrogatory No. 12:

Brian Hackett, Regulatory Affairs Manager, Global Tel*Link Corporation

INTERROGATORY No. 13:

For each contract identified in No. 1, please identify and describe any and all fees charged by your company to consumers of inmate calling services in Massachusetts for establishing, using, maintaining or closing a pre-paid account, including but not limited to fees for opening an account; depositing funds to an account by cash, check, western union, moneygram, or credit card; obtaining a refund from an account; and maintaining an inactive account, stating the percentage or amount any site commission paid from these fees.

GTL Response to Interrogatory No. 13:

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding, is not reasonably calculated to lead to the discovery of admissible evidence, and seeks information that is publicly available in GTL's Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL's website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff's Department and Correctional Facility website, and on the Norfolk County Sheriff's Office website.

GTL Supplemental Response to Interrogatory No. 13:

GTL provides the following publicly available websites where information regarding fees associated with prepaid accounts is available:

<https://www.offenderconnect.com/portal>

<http://www.gtl.net/friends-and-family-information/>

<http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link (GTL)/Inmate Telephone Services)

<http://www.mass.gov/eopss/agencies/doc/advancepay.html>

<http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>

<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>

<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-questions.html>

<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>

http://www.pcsdma.org/Inmate_Information.asp

<http://norfolksheriff.com/friends-and-family-of-inmates/>

Person who will support GTL Response to Interrogatory No. 13:

Brian Hackett, Regulatory Affairs Manager, Global Tel*Link Corporation

INTERROGATORY No. 16:

For each year of each contract identified in No. 1, please state the number of complaints in each of the following categories. If it is not possible to break down complaints by category, please so state and give the most detailed breakdown that your records permit.

- f) Static, line noise and other problems with audibility
- g) Dropped calls
- h) Broken telephone sets
- i) Billing concerns, including but not limited to charges for dropped calls, problems with refunds, and contested fees and surcharges.

GTL Response to Interrogatory No. 16:

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions regarding broken telephone sets are beyond the scope of this proceeding as “the availability and upkeep of telecommunications equipment at correctional facilities” specifically was excluded from inquiry by the *Interlocutory Order*. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

From January 2011 (or from the initiation of service under a particular contract as set forth in GTL Response to Interrogatory No. 1) to March 2014, GTL has received the following complaints regarding billing issues and dropped calls, each of which was resolved in the normal course by either refunding the customer, assisting with the establishment of an account, or otherwise addressing the customer’s specific concern:

Massachusetts Department of Corrections

Billing complaints - ***START CONFIDENTIAL*** ■ ***END CONFIDENTIAL***
Dropped call complaints - ***START CONFIDENTIAL*** ■ ***END
CONFIDENTIAL***

Hamden County Sheriff’s Office

Billing complaints - ***START CONFIDENTIAL*** ■ ***END CONFIDENTIAL***
Dropped call complaints - ***START CONFIDENTIAL*** ■ ***END
CONFIDENTIAL***

Norfolk County Sheriff's Office

Billing complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Dropped call complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Plymouth County Sheriff's Office

Billing complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Dropped call complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

GTL Supplemental Response to Interrogatory No. 16:

In response to a request from Petitioners during the meet-and-confer sessions, GTL reviewed its complaint information, and provides the following updated numbers for complaints received from January 2011 (or from the initiation of service under a particular contract as set forth in GTL Response to Interrogatory No. 1) to March 2014 for billing issues and dropped calls:

Massachusetts Department of Corrections

Billing complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL***

Dropped call complaints - ***START CONFIDENTIAL*** █ ***END
CONFIDENTIAL***

Hamden County Sheriff's Office

Billing complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL***

Dropped call complaints - ***START CONFIDENTIAL*** █ ***END
CONFIDENTIAL***

Norfolk County Sheriff's Office

Billing complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Dropped call complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Plymouth County Sheriff's Office

Billing complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Dropped call complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Person who will support GTL Response to Interrogatory No. 16:

Vance Macdonald, Executive Director of Customer Service, Global Tel*Link Corporation

SUPPLEMENTAL RESPONSES TO REQUESTS

DOCUMENT REQUEST No. 7:

Any document (a) identifying or describing fees charged by your company to consumers of inmate calling services in Massachusetts for establishing, using, maintaining or closing a pre-paid account, (b) listing amounts collected for any such fee or (c) referencing the disposition of such fees once they have been collected.

GTL Response to Document Request No. 7:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, #11, and #12. GTL further objects to this Request on the grounds that this Request is vague, ambiguous, overly broad and unduly burdensome, that is confidential and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Request on the grounds it seeks information not relevant to the subject matter of this proceeding. Documents relating to amounts collected for fees and the disposition of such fees once they have been collected are not relevant to “the per-call surcharge assessed by ICS providers” or the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. GTL further objects to this Request on the grounds that it seeks information that is publicly available in GTL’s Massachusetts tariffs (Global Tel*Link Corporation Massachusetts D.T.C. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL’s website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff’s Department and Correctional Facility website, and on the Norfolk County Sheriff’s Office website.

GTL Supplemental Response to Document Request No. 7:

GTL provides the following publicly available websites where documents may be found regarding the fees for inmate calling services in Massachusetts:

<https://www.offenderconnect.com/portal>
<http://www.gtl.net/friends-and-family-information/>
<http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link (GTL)/Inmate Telephone Services)
<http://www.mass.gov/eopss/agencies/doc/advancepay.html>
<http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-questions.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>
http://www.pcsdma.org/Inmate_Information.asp
<http://norfolksheriff.com/friends-and-family-of-inmates/>

Person who will support GTL Response to Document Request No. 7:

Brian Hackett, Regulatory Affairs Manager, Global Tel*Link Corporation

DOCUMENT REQUEST No. 20:

Your promotional and marketing materials concerning any and all aspects of your provision of inmate calling services from 2011 to the present.

GTL Response to Document Request No. 20:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, #11, and #12. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is publicly available or not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents regarding “promotional and marketing materials” are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. GTL further objects to this Request on the grounds that it seeks information that is publicly available on GTL’s website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff’s Department and Correctional Facility website, and on the Norfolk County Sheriff’s Office website.

GTL Supplemental Response to Document Request No. 20:

GTL provides the following publicly available websites where promotional and marketing materials may be found regarding GTL’s provision of inmate calling services:

<https://www.offenderconnect.com/portal>
<http://www.gtl.net/about-us/>
<http://www.gtl.net/about-us/press-and-news/>
<http://www.gtl.net/correctional-facility-services/>

<http://www.linkedin.com/company/global-tel-link>
<http://www.gtl.net/friends-and-family-information/>
<http://www.mass.gov/eopss/agencies/doc/> (see bottom left side under Global Tel Link (GTL)/Inmate Telephone Services)
<http://www.mass.gov/eopss/agencies/doc/advancepay.html>
<http://www.mass.gov/eopss/docs/doc/debit-calling.pdf>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-faq.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offender-progs/advancepay-questions.html>
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/f-and-f-of-inmates/f-and-f-hbook-mar-2014-final.pdf>
http://www.pcsdma.org/Inmate_Information.asp
<http://norfolksheriff.com/friends-and-family-of-inmates/>

Person who will support GTL Response to Document Request No. 20:
Brian Hackett, Regulatory Affairs Manager, Global Tel*Link Corporation

CERTIFICATE OF SERVICE

I, Angela Collins, certify on this 29th day of May, 2014, that I:

(1) provided the **CONFIDENTIAL VERSION** of Global Tel*Link Corporation's Supplemental Responses and Objections to Petitioners' First Set of Interrogatories and Petitioners' First Set of Document Requests to the following via Federal Express:

Kalun Lee
Hearing Officer
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820
Boston MA 02118-6500

and

(2) served a copy of the **PUBLIC VERSION** of Global Tel*Link Corporation's Supplemental Responses and Objections to Petitioners' First Set of Interrogatories and Petitioners' First Set of Document Requests on the following via the method indicated:

Catrice C. Williams, Secretary
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820
Boston MA 02118-6500
Email: catrice.williams@state.ma.us
Email: dtcefiling@massmail.state.ma.us
Via Federal Express and Electronic Mail

Kalun Lee
Hearing Officer
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820
Boston MA 02118-6500
Email: kalun.lee@state.ma.us
Via Federal Express and Electronic Mail

Paul Abbott
General Counsel
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820
Boston MA 02118-6500
Email: paul.abbott@state.ma.us
Via Electronic Mail and U.S. Mail

CERTIFICATE OF SERVICE

Karlen Reed
Director, Competition Division
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820
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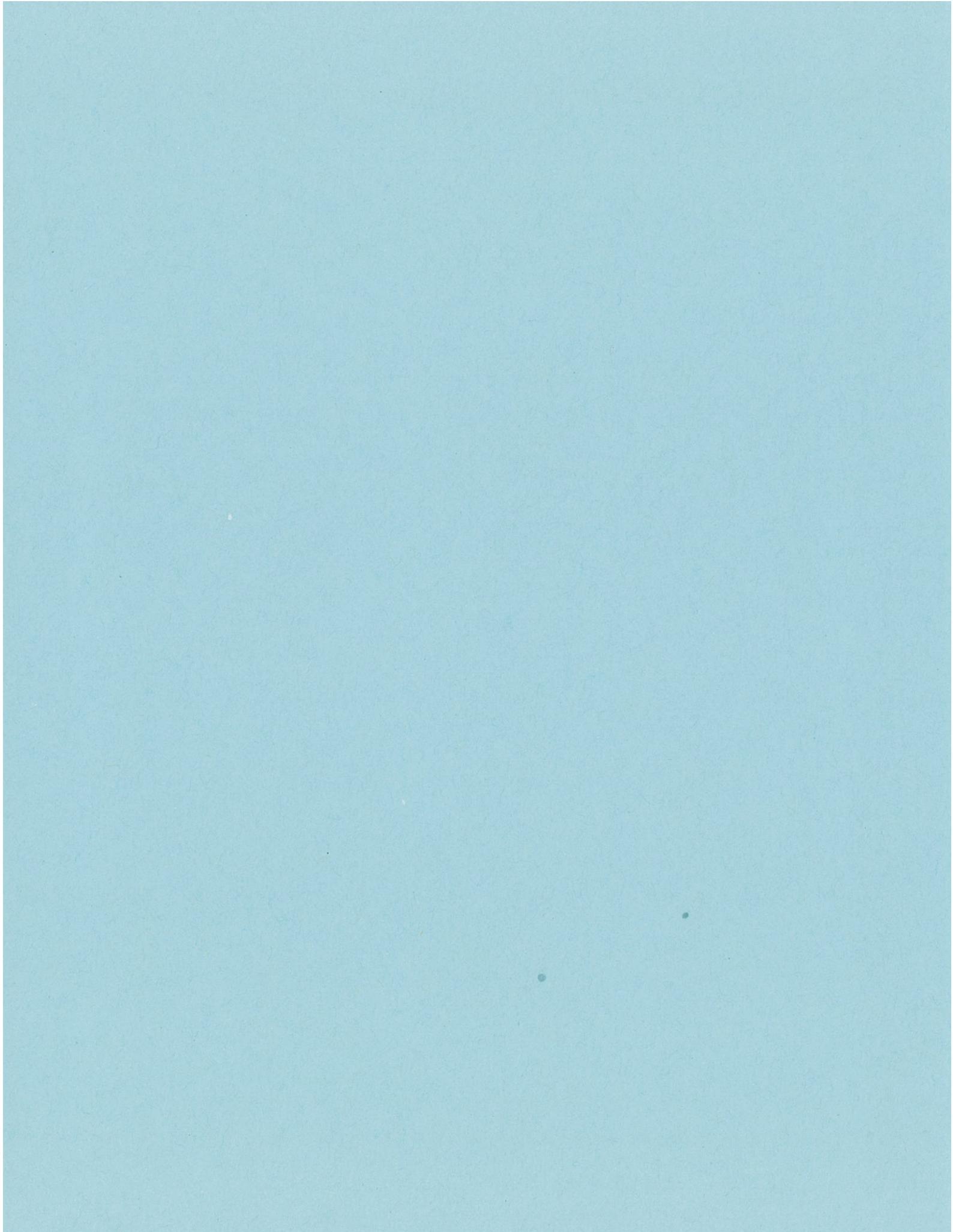
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S. PENNY WINDLE
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*ADMITTED IN DC ONLY

April 29, 2014

Via Electronic Mail and U.S. Mail

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 the **PUBLIC VERSION** of its Responses and Objections to Petitioners' First Set of Interrogatories and a Motion for Confidential Treatment. Three (3) copies of this submission have been mailed to the Hearing Officer, and one copy has been mailed to each Department staff member listed on the service list per the Procedural Order issued February 27, 2014. In addition, GTL has provided the Hearing Officer with the **CONFIDENTIAL VERSION** of its Responses and Objections to Petitioners' First Set of Interrogatories in a sealed envelope along with a CD-ROM, both of which are labeled "CONFIDENTIAL" in accordance with the requirements of the Procedural Order. The **CONFIDENTIAL VERSION** of GTL's Responses and Objections to Petitioners' First Set of Interrogatories will be served on the parties to this proceeding upon execution of a mutually-agreeable Non-Disclosure Agreement between the parties.

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Chérie R. Kiser". The signature is fluid and cursive, with a large loop at the end of the last name.

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 Massachusetts Seeking) D.T.C. 11-16
Relief from the Unjust and Unreasonable)
Cost of Such Calls)

**GLOBAL TEL*LINK CORPORATION’S RESPONSES AND OBJECTIONS
TO PETITIONERS’ FIRST SET OF INTERROGATORIES**

Global Tel*Link Corporation (“GTL”), by and through its attorneys, hereby provides the following Responses and Objections to Petitioners’ First Set of Interrogatories (“Interrogatories”), which counsel for GTL received via electronic mail from Prisoners’ Legal Services on March 10, 2014.

GENERAL OBJECTIONS

1. GTL objects to the Interrogatories to the extent they seek information that is not relevant to the subject matter of this proceeding and are not reasonably calculated to lead to the discovery of admissible evidence. In its September 23, 2013 *Interlocutory Order*, the Department of Telecommunications and Cable (the “DTC”) limited the scope of this proceeding to “the per-call surcharge assessed by ICS [inmate calling service] providers; the tariffed service and other fees assessed by ICS providers; the telephone service quality provided by Respondents, including the frequency of dropped calls and line noise; and Respondents’ billing practices.”¹ The DTC specifically excluded from this proceeding issues relating to the usage rate component of the ICS rate-setting mechanism, the frequency and content of recorded warning messages, and

¹ 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*, Hearing Officer Interlocutory Ruling (Sept. 23, 2013), *aff’d* by, Order on Appeal of Hearing Officer’s Ruling (Feb. 26, 2014) at 1-2 (“*Interlocutory Order*”).

the availability and upkeep of telecommunications equipment at correctional facilities. *Interlocutory Order* at 2. Therefore, any Interrogatory related to the excluded issues or outside the limited scope of this proceeding is improper.

In the *Interlocutory Order*, the DTC acknowledged the “unique additional costs associated with” inmate calling services, which are above and beyond the traditional cost recovery addressed by usage rates. *Interlocutory Order* at 19. A similar acknowledgement in 1998 led the DTC’s predecessor to adopt a per-call surcharge of \$3.00 per call.² The DTC explained that “the rate-setting mechanism adopted for ICS in the *1998 Order* is an incentive regulatory scheme. ‘Any definition of reasonable compensation under an incentive regulatory scheme must be broad enough to allow a utility that is achieving above-average efficiencies to earn more than has been defined as a ‘fair return’ under [rate of return] regulation.’ The Department designed the surcharge to allow ICS providers recovery of legitimate additional costs associated with ICS and to encourage ICS providers to improve productivity and reduce costs through advances in technology similar to the benefit a service provider may receive in a competitive marketplace.” *Interlocutory Order* at 23-24 (citation omitted). According to the DTC, “[w]hether an ICS provider treats those extra earnings as profit, or utilizes them to improve its bidding position to provide ICS through offering lower rates or more generous commissions to a correctional facility, is at the discretion of the provider.” *Interlocutory Order* at 24.

² D.P.U./D.T.E. 97-88/97-18 (Phase II), *Investigation by the Department of Telecommunications and Energy on Its Own Motion regarding (1) Implementation of Section 276 of the Telecommunications Act of 1996 relative to Public Interest Payphones, (2) Entry and Exit Barriers for the Payphone Marketplace, (3) New England Telephone and Telegraph Company d/b/a NYNEX’s Public Access Smart-Pay Line Service, and (4) the Rate Policy for Operator Services Providers*, Order on Payphone Barriers to Entry and Exit, and OSP Rate Cap, at 10 (Apr. 17, 1998) (“*1998 Order*”).

In setting the surcharge, the DTC's predecessor looked to rates charged by companies in 33 states and held that it could "reasonably rely on the costs of these carriers as a proxy for the costs of inmate callings services providers in Massachusetts." *1998 Order* at 10 (finding that using rate caps "provides an administratively efficient way for the Department to ensure that these rates remain reasonable"). The DTC's use of other states as a proxy was an efficient method for the agency to determine the surcharge and was based on an implicit holding that it was unnecessary for ICS providers in Massachusetts to submit detailed ICS cost analyses in order for the DTC to set a reasonable per-call surcharge. *See, e.g., D.P.U. 94-50, NYNEX Price Cap* (May 12, 1995) (finding "one of the primary benefits of price cap regulation is that it renders unnecessary certain regulatory reviews, such as cost allocation and prudence inquiries, that have been fundamental to [rate of return] regulation"); *D.P.U. 93-98, Regulatory Treatment of Telecommunications Common Carriers* (May 11, 1994) ("current market forces, statutory requirements, and the Department's tariff regulations, notice requirements, and consumer complaint resolution process, are sufficient to ensure not only that rates are just and reasonable but that there is adequate consumer protection for interexchange, competitive access, and [alternative operator services], absent the regulation of entry into these markets"); *D.P.U. 94-184, IntraLATA and Local Exchange Competition* (Aug. 29, 1996) (stating that competitors "may file tariff revisions for existing and new service offerings with minimal cost-support documentation"). GTL therefore objects to the Interrogatories to the extent they request information on costs that are covered by the surcharge because the DTC has acknowledged (1) that the surcharge is not directly related to such costs and (2) that ICS providers are not required to itemize their costs in order for the DTC to set a reasonable surcharge.

GTL also objects to all Interrogatories relating to the amount or reasonableness of commissions as the DTC has no jurisdiction over such commissions, which are set by the Massachusetts Department of Corrections, and therefore are outside the scope of this proceeding. *See Breest v. Dubois*, No. 94-1665H, 1997 WL 449898 (Mass. Super. 1997) (holding that the Department of Corrections has the authority to enter into contracts requiring commissions on inmate calls because the DOC is responsible for making and entering into any contracts and agreements necessary for the performance of its duties, which includes maintaining security, safety and order at all state correctional facilities). GTL also objects to all Interrogatories relating to the provision of interstate inmate calling services because such services are not within the jurisdiction of the DTC. *See* G.L. c. 159, § 12; *see also* D.T.E. 03-60, 04-73, Consolidated Order Dismissing Triennial Review Order Investigation and Vacating Suspension of Tariff M.D.T.E. No. 17 (Dec. 15, 2004) (“Under Massachusetts law, the Department has the power of ‘general supervision and regulation of, and jurisdiction and control’ over the ‘transmission of intelligence within the commonwealth by electricity, by means of telephone lines or telegraph lines or any other method or system of communication.’ This jurisdiction extends to services ‘when furnished or rendered for public use within the commonwealth’ by ‘common carriers.’ The Department exercises jurisdiction over such intrastate telecommunications services, *i.e.*, furnished within the commonwealth, to the full extent not preempted by federal law.”).

In short, most of Petitioners’ Interrogatories have little relation to the issues in this proceeding and are just impermissible fishing expeditions. *See, e.g., Alphas Co., Inc. v. Kilduff*, 888 N.E.2d 1003, 1012 (Mass Ct. App. 2008) (affirming summary judgment and noting that “[p]arties may not ‘fish’ for evidence on which to base their complaint in hopes of somehow

finding something helpful to their case in the course of the discovery procedure”) (internal quotation marks omitted).

2. GTL objects to the Interrogatories to the extent they seek to impose a burden beyond that permitted by 220 CMR 1.00, the *Procedural Order* issued on February 27, 2014 in this proceeding (“*Procedural Order*”) or other applicable law or regulation. GTL also objects to Petitioners’ attempt to incorporate Superior Court Standing Order 1-09 in its Definitions and Instructions to the extent it conflicts with, or attempts to expand or modify, the obligations and procedures set forth in 220 CMR 1.00 or the *Procedural Order*.

3. GTL objects to the Interrogatories on the grounds that they are vague, ambiguous, overbroad, unduly burdensome or similarly inappropriate.

4. GTL objects to the definition of “GTL” and “you” and “your” as vague, ambiguous, overbroad and unduly burdensome and specifically objects to the definition to the extent it attempts to include insurers, assigns, successors, executors, firms, trustees, receivers, custodians, contractors, subcontractors and shareholders.

5. GTL objects to the definition of “consumer” as vague, ambiguous, overbroad and unduly burdensome and specifically objects to the definition to the extent it purports to include any individual or entity that does not have a contractual relationship with GTL.

6. GTL objects to the definition of “calendar year” as vague, ambiguous, overbroad and unduly burdensome and when referring to 2014, shall respond as if that term were defined as January 1, 2014 to March 10, 2014.

7. GTL objects to the Interrogatories to the extent they call for confidential information, including, but not limited to, proprietary, trade secret and/or commercially sensitive information.

8. GTL objects to the Interrogatories to the extent the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the proceeding, the amount in controversy, the parties' resources, the importance of the issue or issues to which the Interrogatories are directed and the importance of discovery in resolving such issue or issues.

9. GTL objects to the Interrogatories to the extent that they seek information that is not within GTL's possession, custody or control.

10. GTL objects to the Interrogatories on the ground that they seek information that is publicly available.

11. GTL objects to the Interrogatories to the extent that they require that documents be identified or described and reserves the right instead to produce such documents, if any, either in response to an Interrogatory or as kept in the ordinary course of business.

12. GTL objects to the Interrogatories to the extent that they seek documents and information protected from disclosure by the attorney-client privilege, the common interest privilege or joint defense privilege, the attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. To the extent that the Interrogatories seek such privileged or protected information, GTL hereby claims such privilege(s) and invokes such protection(s). Any documents or information disclosed in response to the Interrogatories shall be disclosed without waiving, but on the contrary, preserving and intending to preserve, each of these privileges and protections. Any inadvertent disclosure of privileged or protected information or documents shall not be deemed a waiver of the applicable privilege(s) or protection(s), and any such document and all copies and images thereof shall be returned to GTL upon demand and/or upon discovery of the inadvertent production.

13. In responding to these Interrogatories, GTL does not waive or intend to waive but rather intends to preserve and is preserving:

- a. All objections as to the relevancy, materiality, admissibility, vagueness, ambiguity, or other infirmity in the form of the Interrogatories and any objections based on the undue burden imposed by any of the Interrogatories;
- b. All rights to object on any ground to the use of the answers, or their subject matter, in this proceeding or any other action;
- c. All rights to object on any ground to any further Interrogatories or other discovery requests involving or related to the subject matter of the Interrogatories; and;
- d. Any and all privileges and rights under any applicable law.

14. These responses are based upon information now known to GTL. GTL reserves the right to amend and/or supplement these Responses and Objections at any time.

15. Nothing in these responses shall be construed as constituting or implying an admission of any allegation or agreement with any assertion or characterization in the Interrogatories.

16. In addition to the general objections set forth above, GTL will also state specific objections to the Interrogatories where appropriate, including objections that are not generally applicable to each of the Interrogatories. By setting forth such specific objections, GTL does not intend to limit or restrict the General Objections set forth above. To the extent that GTL responds to specific Interrogatories, GTL is not waiving its stated objections by providing

information. GTL's General Objections are incorporated in full into the specific responses set forth below.

OFFER TO CONFER

Counsel for GTL offers to confer in good faith with counsel for Petitioners regarding the responses to Petitioners' Interrogatories.

SPECIFIC OBJECTIONS AND RESPONSES**INTERROGATORY No. 1:****Rates, Receipts and Commissions**

Please identify all contracts for inmate calling service (hereinafter ICS) calls in Massachusetts to which you have been a party since January 2011, naming the government authority with whom you contracted and including any modifications or amendments. For each calendar year of each contract, please provide the following information. You are not restricted to using this identical format as long as you can provide all of the requested responses.

	<u>Fixed Rate</u>	<u>Surcharge</u>	<u>Rate Per Minute</u>	<u>Site Commission Percentage</u>
<u>Collect Calling</u>				
Local Calling				
State IntraLATA Calling				
State InterLATA Calling				
Interstate				
<u>Debit Calling</u>				
Local Calling				
State IntraLATA Calling				
State InterLATA Calling				
<u>Advance payment calling</u>				
Local Calling				
State IntraLATA Calling				
State InterLATA Calling				
<u>Total</u>				

GTL Response to Interrogatory No. 1:

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that it seeks information that is not relevant to the subject matter of this proceeding. Questions regarding fixed rates, rates per minute, and site commission percentages are beyond

the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. The \$3.00 cap on the per-call surcharge does not vary based on the type of intrastate call (local, intrastate intraLATA, intrastate interLATA) or the length of the call. In addition, questions concerning interstate inmate calling services are beyond the scope of this proceeding. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

Since January 2011, GTL has been a party to contracts with the following government authorities to provide inmate calling service in Massachusetts:

- Massachusetts Department of Corrections
- Norfolk County Sheriff’s Office
- Plymouth County Sheriff’s Office (inmate calling service initiated in August 2011)
- Hampden County Sheriff’s Office (inmate calling service initiated in October 2012)

Information regarding surcharges (as defined by Petitioners, the term “surcharge” refers to a flat fee assessed for connecting to the network, prior to being charged on a per minute basis) are found in GTL’s tariffs on file with the DTC (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1).

Person who will support GTL Response to Interrogatory No. 1:
John Canny, Account Manager, Global Tel*Link Corporation

INTERROGATORY No. 2:

For each year of each contract identified in response to Interrogatory Number 1, above, (hereinafter No. 1) please provide the following information. You are not restricted to using this identical format as long as you can provide all of the requested responses.

<u>Gross</u>	<u>Commissions</u>
<u>Receipts</u>	<u>Paid</u>

Collect Calling

Local Calling
State IntraLATA Calling
State InterLATA Calling
Interstate

Debit Calling

Local Calling
State IntraLATA Calling
State InterLATA Calling

Advance payment calling

Local Calling
State IntraLATA Calling
State InterLATA Calling

Total

GTL Response to Interrogatory No. 2:

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome, seeks confidential information, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that it seeks information that is not relevant to the subject matter of this proceeding. Questions relating to gross receipts and commissions paid are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. The \$3.00 cap on the per-call surcharge does not vary based on the type of intrastate call (local,

intrastate intraLATA, intrastate interLATA) being made by the inmate. In addition, questions concerning interstate inmate calling services are beyond the scope of this proceeding.

INTERROGATORY No. 3:

For each year of each contract identified in response to No. 1, please provide the following information. You are not restricted to using this identical format as long as you can provide all of the requested responses.

	<u>No. of Calls Competed</u>	<u>Average Call Length</u>	<u>Total No. of Minutes Used</u>
<u>Collect Calling</u>			
Local Calling			
State IntraLATA Calling			
State InterLATA Calling			
Interstate			
<u>Debit Calling</u>			
Local Calling			
State IntraLATA Calling			
State InterLATA Calling			
<u>Advance payment calling</u>			
Local Calling			
State IntraLATA Calling			
State InterLATA Calling			
<u>Total</u>			

GTL Response to Interrogatory No. 3

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that it seeks information that is not relevant to the subject matter of this proceeding. Questions regarding average call length and the total number of minutes used are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. The \$3.00 cap on the per-call surcharge does not vary based on the type of intrastate call (local,

intrastate intraLATA, intrastate interLATA), the number of calls, the length of the call, or the total number of minutes used. In addition, questions concerning interstate inmate calling services are beyond the scope of this proceeding. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

GTL provides its yearly total number of intrastate Massachusetts inmate telephone calls completed from 2011 (or from the initiation of service under a particular contract as set forth in GTL Response to Interrogatory No. 1) to March 2014 for each of the contracts listed in GTL Response to Interrogatory No. 1:

Massachusetts Department of Corrections

2011 ***START CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL**

2012 ***START CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL**

2013 ***START CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL**

January-March 2014 ***START CONFIDENTIAL*** [REDACTED] ***END
CONFIDENTIAL***

Norfolk County Sheriff's Office

2011 ***START CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL***

2012 ***START CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL***

2013 ***START CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL***

January-March 2014 ***START CONFIDENTIAL*** [REDACTED] ***END
CONFIDENTIAL***

Plymouth County Sheriff's Office

August-December 2011 ***START CONFIDENTIAL*** [REDACTED] ***END
CONFIDENTIAL***

2012 ***START CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL***

2013 ***START CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL***

January-March 2014 ***START CONFIDENTIAL*** [REDACTED] ***END
CONFIDENTIAL***

Hampden County Sheriff's Office

October-December 2012 ***START CONFIDENTIAL*** [REDACTED] ***END
CONFIDENTIAL***

2013 ***START CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL***

January-March 2014 ***START CONFIDENTIAL*** [REDACTED] ***END
CONFIDENTIAL***

Person who will support GTL Response to Interrogatory No. 3:

Steven Yow, Chief Financial Officer, Global Tel*Link Corporation

INTERROGATORY No. 4:

For each year of each contract identified in response to No. 1, please list any minimum commission guaranteed by the contract and state the amount paid, if any, to satisfy this guarantee.

GTL Response to Interrogatory No. 4

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions concerning minimum commissions guaranteed and commissions paid are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*.

INTERROGATORY No. 5:

Please identify any documents demonstrating revenue that you received and commission payments made under each of the contracts identified in response to No. 1.

GTL Response to Interrogatory No. 5

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is duplicative, overly broad and unduly burdensome, seeks confidential information, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions concerning revenue received by GTL and commission payments made by GTL are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*.

INTERROGATORY No. 6:

Please list all categories of costs associated with providing ICS in Massachusetts, including but not limited to the following potential costs. For each cost, please indicate how much you spent during each calendar year of each contract identified in No. 1. To the extent that you allocate shared costs between facilities, or between Massachusetts and other jurisdictions, please so indicate and state the basis for your calculation of pro-rated costs.

- a) Call processing systems
- b) Automated operators
- c) Live operators
- d) Call recording and monitoring equipment
- e) Fraud control programs
- f) Financial processing
- g) Lobbying and other government advocacy
- h) Back office administrative costs
- i) Call centers
- j) Database checks
- k) Voice overlays
- l) Customized call detail reports
- m) Research and Development
- n) Call control systems
- o) Other personnel costs
- p) Other costs not referenced in a. through o.

GTL Response to Interrogatory No. 6

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, overly broad and unduly burdensome, seeks confidential information, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions regarding “all” categories of costs associated with providing inmate calling service in Massachusetts are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*.

Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

In addition to the categories listed in a-o above, GTL also considers the following to be additional, unique characteristics associated with providing inmate calling services: (1) bad debt expense for collect calling; (2) credit card and transaction processing fees; (3) special equipment, including service maintenance and repair of inmate phones; (4) capital expenditures; (5) commissions required to be paid under state law or correctional facility contracts; (6) data storage; (7) on-site personnel and human resources support; (8) software, including web-portals for use by correctional facilities and web-based payment systems for friends and family; (9) voice analysis or biometrics; (10) cell phone detection tools; (11) maintenance of prepaid accounts and inmate PIN numbers; and (12) management and movement of inmate trust funds held by a commissary (or other third-party that manages inmate trust funds).

Person who will support GTL Response to Interrogatory No. 6:

Steven Yow, Chief Financial Officer, Global Tel*Link Corporation

Michael Browning, Vice President of Accounting, Global Tel*Link Corporation

INTERROGATORY No. 7:

For each type of call described in No.1 (Collect, Debit and Advance Pay Calling), please provide an itemization of your expenses associated with the cost to complete such a call. To the extent that it is not possible to itemize your expenses, please describe in detail each component of the aggregate costs to you of completing such calls.

GTL Response to Interrogatory No. 7

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is duplicative, overly broad and unduly burdensome, seeks confidential information, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions regarding itemization of expenses associated with the cost to complete calls and each component of the aggregate costs of completing calls are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

GTL does not itemize its expenses associated with the cost to complete a call. GTL looks at the total cost of providing inmate calling services as a whole to a correctional facility customer, which is based on the specific requirements of each individual Request for Proposal (“RFP”) or correctional facility contract and any applicable rate requirements under state and federal law.

Person who will support GTL Response to Interrogatory No. 7:

Steven Yow, Chief Financial Officer, Global Tel*Link Corporation

Michael Browning, Vice President of Accounting, Global Tel*Link Corporation

INTERROGATORY No. 8:

Please describe what equipment is used to store, record and monitor inmate telephone calls in each of the Massachusetts correctional facilities listed in response to No. 1.

GTL Response to Interrogatory No. 8

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome, seeks information that is confidential, is in the purview of the Massachusetts Department of Corrections, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions regarding the equipment used by GTL to store, record and monitor inmate telephone calls are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*.

INTERROGATORY No. 9:

If you currently use live operators in the provision of inmate calling services in Massachusetts, how many and in what capacity are they used at each facility for which you provide ICS?

GTL Response to Interrogatory No. 9

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence and this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions concerning the number of live operators GTL uses and the capacity in which live operators are used are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

“Operator” calls include automated, prepaid services like those offered to inmates and their friends and families by GTL and not solely those services with live operators. The federal definition of “inmate operator services” specifically includes “any automatic or live assistance to a consumer to arrange for billing or completion, or both” of a telephone call. 47 C.F.R. § 64.710(b)(3). Live operators are not used in the origination of calls by inmates, and generally are not permitted to be used under state law or correctional facility requirements. For example, the Massachusetts Department of Corrections Rules on Telephone Access and Use state that all inmate telephone calls must be made “utilizing an automated operator” (103 CMR 482.06(3)(a)). Live operators, however, are available as necessary for friends and family of an inmate.

Person who will support GTL Response to Interrogatory No. 9:

Lauren Studebaker, Senior Vice President, Services, Global Tel*Link Corporation

INTERROGATORY No. 10:

With respect to each year, each contract and each type of call (collect, debit and advanced payment) identified in No. 1,

- q) what dollar amount of receivables were not collectable?
- r) what dollar amount of lost revenue did this amount to?

GTL Response to Interrogatory No. 10

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, overly broad and unduly burdensome, seeks confidential information, seeks information that is not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY No. 11:

For each contract identified in No. 1, please describe:

- a) The number of pre-paid or “debit” accounts for each year from January 2011 to present;
- b) the process used to deposit funds into a pre-paid account. If the process used is different depending on the source of the funds (cash, credit card, western union, check) please explain the process for each separately;
- c) the costs attributable to processing deposits to pre-paid accounts;
- d) the costs attributable to processing refunds from pre-paid accounts;
- e) the dollar mount [sic] that was actually refunded to Massachusetts consumers for each calendar year from January 2011 to the present.

GTL Response to Interrogatory No. 11

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, overly broad and unduly burdensome, seeks confidential information, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory because it seeks information that is not relevant to the subject matter of this proceeding. Questions regarding the number of prepaid or debit accounts, refunds and deposits are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Interrogatory because the process used to deposit funds into a prepaid account is publicly available in GTL’s Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL’s website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff’s Department and Correctional Facility website, and on the Norfolk County Sheriff’s Office website.

INTERROGATORY No. 12:

Please describe the process used to refund unused funds from pre-paid accounts to consumers. If the refunds are unclaimed or otherwise not processed, please describe how these funds are accounted for (e.g. retained as income, transferred to the State's unclaimed funds program) and whether or not commissions are paid on income generated from the unclaimed funds.

GTL Response to Interrogatory No. 12

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is confidential, that is not reasonably calculated to lead to the discovery of admissible evidence, and that is not relevant to the subject matter of this proceeding. Questions regarding the process used to refund unused funds are beyond the scope of this proceeding as they do not relate to "the per-call surcharge assessed by ICS providers" or any of the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Interrogatory because information regarding the process used to refund unused funds from prepaid accounts is publicly available in GTL's Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL's website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff's Department and Correctional Facility website, and on the Norfolk County Sheriff's Office website.

INTERROGATORY No. 13:

For each contract identified in No. 1, please identify and describe any and all fees charged by your company to consumers of inmate calling services in Massachusetts for establishing, using, maintaining or closing a pre-paid account, including but not limited to fees for opening an account; depositing funds to an account by cash, check, western union, moneygram, or credit card; obtaining a refund from an account; and maintaining an inactive account, stating the percentage or amount any site commission paid from these fees.

GTL Response to Interrogatory No. 13

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding, is not reasonably calculated to lead to the discovery of admissible evidence, and seeks information that is publicly available in GTL's Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL's website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff's Department and Correctional Facility website, and on the Norfolk County Sheriff's Office website.

INTERROGATORY No. 14:

Please identify and describe all taxes and regulatory and other surcharges charged by your company to consumers of inmate calling services in Massachusetts.

GTL Response to Interrogatory No. 14

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome, seeks information that is not relevant to the subject matter of this proceeding, seeks information that is publicly available in GTL's Massachusetts tariffs (Global Tel*Link Corporation M.D.T.E. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

GTL uses industry leading third-party tax engines that are integrated with GTL's billing system to provide real-time calculations of telecommunications taxes. The tax engines consider the origination, destination, and billing telephone numbers for a particular call to determine the appropriate taxes to charge for that call. Given that calls originating from Massachusetts correctional facilities can be placed to anywhere in the United States, the resulting tax obligation could be due to any variety of combinations of state, county, and city tax jurisdictions. The use of these tax engines with access to the thousands of potential tax rates nationwide is critical to accurate tax calculations and customer bills. The third-party tax engine databases are updated on a monthly basis to reflect any changes to Federal, state and, local tax rates.

Person who will support GTL Response to Interrogatory No. 14:

Steven Yow, Chief Financial Officer, Global Tel*Link Corporation

Michael Browning, Vice President of Accounting, Global Tel*Link Corporation

INTERROGATORY No. 15:

Please describe the process used for receiving, processing and closing a complaint regarding the provision of inmate calling services for each facility currently under contract with you in Massachusetts.

GTL Response to Interrogatory No. 15

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome, is not reasonably calculated to lead to the discovery of admissible evidence, and seeks information that is not relevant to the subject matter of this proceeding. Any questions not limited to service quality and billing practices are beyond the scope of this proceeding as they do not relate to the four areas of inquiry identified in the *Interlocutory Order*. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

GTL takes complaints regarding the quality of its inmate calling services very seriously. GTL's Massachusetts tariff, for example, states that any disputed charges "should be received orally or in writing by [GTL] as soon as possible" so that GTL can "promptly investigate and advise the Customer as to its findings concerning disputed charges." Global Tel*Link Corporation, M.D.T.E. Tariff No. 2, § 2.10.2 (effective Apr. 30, 2005). GTL's tariff further indicates that adjustments will be made if "circumstances exist which reasonably indicate that such changes are appropriate." *Id.*

Individuals using GTL's services have numerous ways to contact GTL. GTL's contact information for its billing and customer service departments is included on customer bills for those customers placing collect call charges on their local exchange carrier bill, and is also available on GTL's website. To ensure inmates have access to information regarding GTL's services, GTL makes posters available in corrections facilities, which can be hung in each

individual inmate calling location. The poster provides detail on the applicable call rates, instructions on how to place a call, and contact information for lodging complaints and inquiries. GTL also employs an on-site administrator that can provide inquiring inmates with additional information to resolve complaints regarding the inmate calling system.

When issues regarding the service quality of an inmate call are brought to GTL's attention (either from the correctional facility, the prisoner, or the prisoner's family or friends), GTL reviews the call detail record and/or the recording of the telephone call at issue. Based on that investigation, GTL determines whether a credit or refund is warranted for that particular call or whether there is a larger service issue to be remedied. Non-specific claims such as "connection problems" and "customer service problem," however, do not provide adequate information that would allow GTL to address a specific service quality issue with a particular telephone call. GTL encourages informal attempts to resolve complaints at the company-level in the first instance.

When customers request to be transferred to a higher level due to not being able to get their issue resolved by a customer service agent, GTL has a dedicated staff of experienced "escalation" agents who can assist the customer. If, in the rare instance, an escalation agent is not able to completely satisfy the customer's concern, they will elevate the issue to a call center supervisor for resolution. Customer service and escalation agents, along with call center supervisors, notate all customer contact detail in GTL's "CARES" customer service application. The CARES system contains a customer's call history, including transaction history, invoice history, and account notations outlining and detailing all GTL interaction with that customer. The information is maintained on a per account or billing telephone number basis.

Although GTL's customer service agents have powerful research tools available to them to resolve concerns, when they encounter an issue that requires further research, they submit electronic research forms with all the details of the issues to an experienced resolution team who performs the additional verification needed to solve the issue. If there is an issue that requires technical assistance, this team creates internal "action" to the technical group(s) that can provide the proper support.

Complaints filed at the Federal Communications Commission ("FCC"), state public utility commission ("PUC"), or Better Business Bureau ("BBB"), and other formal complaints are handled by a dedicated billing escalations group and are tracked by GTL's "MRit" system. This system tracks complaints by reference number, type of complaint (FCC, PUC, consumer, etc.), category, and correctional facility. The system affords GTL the ability to summarize the complaint and provide specific details concerning its nature. The MRit system makes it possible to filter complaints by agency, internal group, specific categories, and facility, so that reporting can be as general or specific as needed.

Person who will support GTL Response to Interrogatory No. 15:

Vance Macdonald, Executive Director of Customer Service, Global Tel*Link Corporation

INTERROGATORY No. 16:

For each year of each contract identified in No. 1, please state the number of complaints in each of the following categories. If it is not possible to break down complaints by category, please so state and give the most detailed breakdown that your records permit.

- a) Static, line noise and other problems with audibility
- b) Dropped calls
- c) Broken telephone sets
- d) Billing concerns, including but not limited to charges for dropped calls, problems with refunds, and contested fees and surcharges.

GTL Response to Interrogatory No. 16

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions regarding broken telephone sets are beyond the scope of this proceeding as “the availability and upkeep of telecommunications equipment at correctional facilities” specifically was excluded from inquiry by the *Interlocutory Order*. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

From January 2011 (or from the initiation of service under a particular contract as set forth in GTL Response to Interrogatory No. 1) to March 2014, GTL has received the following complaints regarding billing issues and dropped calls, each of which was resolved in the normal course by either refunding the customer, assisting with the establishment of an account, or otherwise addressing the customer’s specific concern:

Massachusetts Department of Corrections

Billing complaints - *****START CONFIDENTIAL***** ■ *****END CONFIDENTIAL*****
Dropped call complaints - *****START CONFIDENTIAL***** ■ *****END CONFIDENTIAL*****

Hamden County Sheriff’s Office

Billing complaints - *****START CONFIDENTIAL***** ■ *****END CONFIDENTIAL*****
Dropped call complaints - *****START CONFIDENTIAL***** ■ *****END CONFIDENTIAL*****

Norfolk County Sheriff's Office

Billing complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Dropped call complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Plymouth County Sheriff's Office

Billing complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Dropped call complaints - ***START CONFIDENTIAL*** █ ***END CONFIDENTIAL**

Person who will support GTL Response to Interrogatory No. 16:

Vance Macdonald, Executive Director of Customer Service, Global Tel*Link Corporation

INTERROGATORY No. 17:

For each complaint received and listed in Interrogatory 16, please describe any action, if any, you took to address the complaint and how and if the complaint was resolved.

GTL Response to Interrogatory No. 17

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds by referring to GTL Response to Interrogatory No. 15 and GTL Response to Interrogatory No. 16.

Person who will support GTL Response to Interrogatory No. 17:

Vance Macdonald, Executive Director of Customer Service, Global Tel*Link Corporation

INTERROGATORY No. 18:

Please describe any upgrades you made to the telephone systems in any of the facilities listed in No. 1 since 2011.

GTL Response to Interrogatory No. 18

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions regarding upgrades to telephone systems are beyond the scope of this proceeding as “the availability and upkeep of telecommunications equipment at correctional facilities” specifically was excluded from inquiry by the *Interlocutory Order*.

INTERROGATORY No. 19:

Please describe systems that you use to track or manage complaints about billing issues and identify any documents describing these systems.

GTL Response to Interrogatory No. 19

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, overly broad and unduly burdensome, and duplicative of Interrogatory No. 15. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds by referring to GTL Response to Interrogatory No. 15 and GTL Response to Interrogatory No. 16.

Person who will support GTL Response to Interrogatory No. 19:

Vance Macdonald, Executive Director of Customer Service, Global Tel*Link Corporation

INTERROGATORY No. 20:

Please describe systems or processes that you use to track performance by facility, state and by region, in the following categories, and identify any documents describing these systems.

- a) financial and / or margin performance (i.e. the revenue, expenses and margin you received);
- b) quality performance (i.e. how you did on completing calls);
- c) technical and network performance (i.e. how the network, equipment and software performed).

GTL Response to Interrogatory No. 20

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, overly broad and unduly burdensome, is duplicative, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is confidential and is not relevant to the subject matter of this proceeding. Questions regarding financial and/or margin performance are beyond the scope of this proceeding as they do not relate to “the per-call surcharge assessed by ICS providers” or any of the other three areas of inquiry identified in the *Interlocutory Order*. Questions regarding technical and network performance are beyond the scope of this proceeding as “the availability and upkeep of telecommunications equipment at correctional facilities” specifically was excluded from inquiry by the *Interlocutory Order*. Without waiving its General Objections or its Specific Objections to this Interrogatory, GTL responds as follows:

With respect to quality performance, please see GTL Response to Interrogatory No. 16. In 2013, GTL completed approximately *****START CONFIDENTIAL***** [REDACTED] *****END CONFIDENTIAL***** calls nationwide. Using 2013 as a guideline, GTL’s nationwide complaint to completed call ratio was *****START CONFIDENTIAL*****

██████████ *****END CONFIDENTIAL*****, which provides proper context for GTL's quality of service performance.

Person who will support GTL Response to Interrogatory No. 20:

Vance Macdonald, Executive Director of Customer Service, Global Tel*Link Corporation

INTERROGATORY No. 21:

Describe your budgetary process including how you set financial goals for the year, and how you compare actual results to what was budgeted.

GTL Response to Interrogatory No. 21

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, overly broad and unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is confidential and is not relevant to the subject matter of this proceeding. Questions regarding GTL's budgetary process including how GTL sets financial goals for the year and how GTL compares actual results to what was budgeted are beyond the scope of this proceeding as they do not relate to the four areas of inquiry identified in the *Interlocutory Order*.

INTERROGATORY No. 22:

Please identify and describe any reports, analysis or other documentation that is created to report profitability to management.

GTL Response to Interrogatory No. 22

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, overly broad and unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is confidential and is not relevant to the subject matter of this proceeding. Questions regarding reports, analysis or other documentation that is created to report profitability to management are beyond the scope of this proceeding as they do not relate to the four areas of inquiry identified in the *Interlocutory Order*.

INTERROGATORY No. 23:

Please list any and all enforcement actions or investigations against GTL by other public utility commissions from 2009 to the present.

GTL Response to Interrogatory No. 23

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions regarding enforcement actions or investigations against GTL are beyond the scope of this proceeding as they do not relate to the four areas of inquiry identified in the *Interlocutory Order*.

INTERROGATORY No. 24:

Please state both your gross and net earnings derived from the provision of inmate calling services to the facilities in Massachusetts listed in Response to No. 1 from 2008 to the present, including a comparison of your gross and net earnings derived from your provision of inmate calling services in other states.

GTL Response to Interrogatory No. 24

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, #7, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is vague, ambiguous, overly broad and unduly burdensome, seeks confidential information, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions GTL's gross and net earnings derived from the provision of inmate calling services to the facilities in Massachusetts, including a comparison of GTL's gross and net earnings derived from the provision of inmate calling services in other states, are beyond the scope of this proceeding as they do not relate to the four areas of inquiry identified in the *Interlocutory Order*.

INTERROGATORY No. 25:

Please state how many telephones for incarcerated ICS consumers are currently installed in each Massachusetts facility to which you provide services and how many service calls you made to each facility for each calendar year from 2011 to the present. If any telephone units were replaced in any of the facilities, please state how many, when they were replaced and why.

GTL Response to Interrogatory No. 25

GTL repeats and restates the General Objections to this Interrogatory, and specifically General Objections #1, #3, and #8. GTL further objects to this Interrogatory on the grounds that this Interrogatory is overly broad and unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Interrogatory on the grounds that this Interrogatory seeks information that is not relevant to the subject matter of this proceeding. Questions regarding telephone installations, service calls, and replacement of telephone units are beyond the scope of this proceeding as “the availability and upkeep of telecommunications equipment at correctional facilities” specifically was excluded from inquiry by the *Interlocutory Order*.

CERTIFICATE OF SERVICE

I, Angela F. Collins, certify on this 29th day of April, 2014, that I (1) provided the **CONFIDENTIAL VERSION** of Global Tel*Link Corporation's Responses and Objections to

Petitioners' First Set of Interrogatories to the following via Federal Express:

Kalun Lee
Hearing Officer
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820
Boston MA 02118-6500

and (2) served a copy of the **PUBLIC VERSION** of Global Tel*Link Corporation's Responses and Objections to Petitioners' First Set of Interrogatories on the following via the method indicated:

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Karlen Reed
Director, Competition Division
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820

CERTIFICATE OF SERVICE

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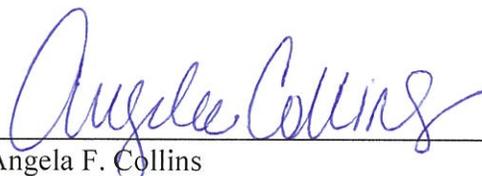
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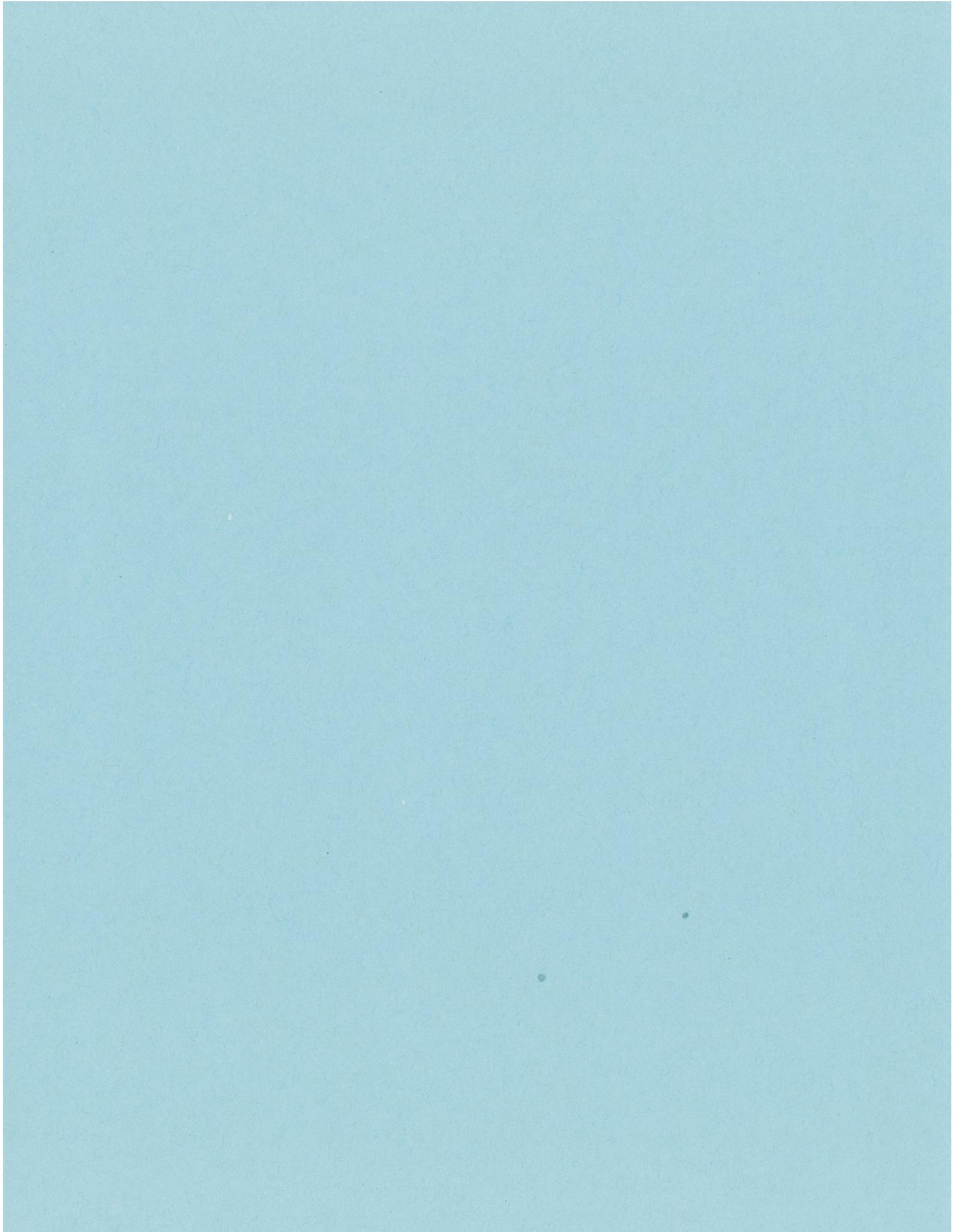
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*ADMITTED IN DC ONLY

April 29, 2014

Via Electronic Mail and U.S. Mail

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 Responses and Objections to Petitioners' First Set of Requests for Production of Documents (and documents labeled GTL 001-0068). Three (3) copies of this submission have been mailed to the Hearing Officer, and one copy has been mailed 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 Massachusetts Seeking
Relief from the Unjust and Unreasonable
Cost of Such Calls

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D.T.C. 11-16

**GLOBAL TEL*LINK CORPORATION’S RESPONSES AND OBJECTIONS TO
PETITIONERS’ FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Global Tel*Link Corporation (“GTL”), by and through its attorneys, hereby provides the following Responses and Objections to Petitioners’ First Set of Requests for Production of Documents (“Requests”), which counsel for GTL received via electronic mail from Prisoners’ Legal Services on March 10, 2014.

GENERAL OBJECTIONS

1. GTL objects to the Requests to the extent they seek information that is not relevant to the subject matter of this proceeding and are not reasonably calculated to lead to the discovery of admissible evidence. In its September 23, 2013 *Interlocutory Order*, the Department of Telecommunications and Cable (the “DTC”) limited the scope of this proceeding to “the per-call surcharge assessed by ICS [inmate calling service] providers; the tariffed service and other fees assessed by ICS providers; the telephone service quality provided by Respondents, including the frequency of dropped calls and line noise; and Respondents’ billing practices.”¹ The DTC specifically excluded from this proceeding issues relating to the usage rate component of the ICS rate-setting mechanism, the frequency and content of recorded warning messages, and

¹ 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*, Hearing Officer Interlocutory Ruling (Sept. 23, 2013), *aff’d* by, Order on Appeal of Hearing Officer’s Ruling (Feb. 26, 2014) at 1-2 (“*Interlocutory Order*”).

the availability and upkeep of telecommunications equipment at correctional facilities. *Interlocutory Order* at 2. Therefore, any Request related to the excluded issues or outside the limited scope of this proceeding is improper.

In the *Interlocutory Order*, the DTC acknowledged the “unique additional costs associated with” inmate calling services, which are above and beyond the traditional cost recovery addressed by usage rates. *Interlocutory Order* at 19. A similar acknowledgement in 1998 led the DTC’s predecessor to adopt a per-call surcharge of \$3.00 per call.² The DTC explained that “the rate-setting mechanism adopted for ICS in the *1998 Order* is an incentive regulatory scheme. ‘Any definition of reasonable compensation under an incentive regulatory scheme must be broad enough to allow a utility that is achieving above-average efficiencies to earn more than has been defined as a ‘fair return’ under [rate of return] regulation.’ The Department designed the surcharge to allow ICS providers recovery of legitimate additional costs associated with ICS and to encourage ICS providers to improve productivity and reduce costs through advances in technology similar to the benefit a service provider may receive in a competitive marketplace.” *Interlocutory Order* at 23-24 (citation omitted). According to the DTC, “[w]hether an ICS provider treats those extra earnings as profit, or utilizes them to improve its bidding position to provide ICS through offering lower rates or more generous commissions to a correctional facility, is at the discretion of the provider.” *Interlocutory Order* at 24.

² D.P.U./D.T.E. 97-88/97-18 (Phase II), *Investigation by the Department of Telecommunications and Energy on Its Own Motion regarding (1) Implementation of Section 276 of the Telecommunications Act of 1996 relative to Public Interest Payphones, (2) Entry and Exit Barriers for the Payphone Marketplace, (3) New England Telephone and Telegraph Company d/b/a NYNEX’s Public Access Smart-Pay Line Service, and (4) the Rate Policy for Operator Services Providers*, Order on Payphone Barriers to Entry and Exit, and OSP Rate Cap, at 10 (Apr. 17, 1998) (“*1998 Order*”).

In setting the surcharge, the DTC's predecessor looked to rates charged by companies in 33 states and held that it could "reasonably rely on the costs of these carriers as a proxy for the costs of inmate callings services providers in Massachusetts." *1998 Order* at 10 (finding that using rate caps "provides an administratively efficient way for the Department to ensure that these rates remain reasonable"). The DTC's use of other states as a proxy was an efficient method for the agency to determine the surcharge and was based on an implicit holding that it was unnecessary for ICS providers in Massachusetts to submit detailed ICS cost analyses in order for the DTC to set a reasonable per-call surcharge. *See, e.g., D.P.U. 94-50, NYNEX Price Cap* (May 12, 1995) (finding "one of the primary benefits of price cap regulation is that it renders unnecessary certain regulatory reviews, such as cost allocation and prudence inquiries, that have been fundamental to [rate of return] regulation"); *D.P.U. 93-98, Regulatory Treatment of Telecommunications Common Carriers* (May 11, 1994) ("current market forces, statutory requirements, and the Department's tariff regulations, notice requirements, and consumer complaint resolution process, are sufficient to ensure not only that rates are just and reasonable but that there is adequate consumer protection for interexchange, competitive access, and [alternative operator services], absent the regulation of entry into these markets"); *D.P.U. 94-184, IntraLATA and Local Exchange Competition* (Aug. 29, 1996) (stating that competitors "may file tariff revisions for existing and new service offerings with minimal cost-support documentation"). GTL therefore objects to the Requests to the extent they request information on costs that are covered by the surcharge because the DTC has acknowledged (1) that the surcharge is not directly related to such costs and (2) that ICS providers are not required to itemize their costs in order for the DTC to set a reasonable surcharge.

GTL also objects to all Requests relating to the amount or reasonableness of commissions as the DTC has no jurisdiction over such commissions, which are set by the Massachusetts Department of Corrections, and therefore are outside the scope of this proceeding. *See Breest v. Dubois*, No. 94-1665H, 1997 WL 449898 (Mass. Super. 1997) (holding that the Department of Corrections has the authority to enter into contracts requiring commissions on inmate calls because the DOC is responsible for making and entering into any contracts and agreements necessary for the performance of its duties, which includes maintaining security, safety and order at all state correctional facilities). GTL also objects to all Requests relating to the provision of interstate inmate calling services because such services are not within the jurisdiction of the DTC. *See G.L. c. 159, § 12; see also D.T.E. 03-60, 04-73, Consolidated Order Dismissing Triennial Review Order Investigation and Vacating Suspension of Tariff M.D.T.E. No. 17* (Dec. 15, 2004) (“Under Massachusetts law, the Department has the power of ‘general supervision and regulation of, and jurisdiction and control’ over the ‘transmission of intelligence within the commonwealth by electricity, by means of telephone lines or telegraph lines or any other method or system of communication.’ This jurisdiction extends to services ‘when furnished or rendered for public use within the commonwealth’ by ‘common carriers.’ The Department exercises jurisdiction over such intrastate telecommunications services, *i.e.*, furnished within the commonwealth, to the full extent not preempted by federal law.”).

In short, most of Petitioners’ Requests have little relation to the issues in this proceeding and are just impermissible fishing expeditions. *See, e.g., Alphas Co., Inc. v. Kilduff*, 888 N.E.2d 1003, 1012 (Mass Ct. App. 2008) (affirming summary judgment and noting that “[p]arties may not ‘fish’ for evidence on which to base their complaint in hopes of somehow finding something

helpful to their case in the course of the discovery procedure”) (internal quotation marks omitted).

2. GTL objects to the Requests to the extent they seek to impose a burden beyond that permitted by 220 CMR 1.00, the *Procedural Order* issued on February 27, 2014 in this proceeding (“*Procedural Order*”) or other applicable law or regulation. GTL also objects to Petitioners’ attempt to incorporate Superior Court Standing Order 1-09 in its Definitions and Instructions to the extent it conflicts with, or attempts to expand or modify, the obligations and procedures set forth in 220 CMR 1.00 or the *Procedural Order*.

3. GTL objects to the Requests on the grounds that they are vague, ambiguous, overbroad, unduly burdensome or similarly inappropriate.

4. GTL objects to Petitioners attempt to incorporate by reference the Definitions set forth in Petitioners’ First Set of Interrogatories as those definitions are vague, ambiguous, overbroad, unduly burdensome or similarly inappropriate.

5. GTL objects to the definition of “GTL” and “you” and “your” set forth in Petitioners’ First Set of Interrogatories as vague, ambiguous, overbroad and unduly burdensome and specifically objects to the definition to the extent it attempts to include insurers, assigns, successors, executors, firms, trustees, receivers, custodians, contractors, subcontractors and shareholders.

6. GTL objects to the definition of “consumer” set forth in Petitioners’ First Set of Interrogatories as vague, ambiguous, overbroad and unduly burdensome and specifically objects to the definition to the extent it purports to include any individual or entity that does not have a contractual relationship with GTL.

7. GTL objects to the definition of “calendar year” set forth in Petitioners’ First Set of Interrogatories as vague, ambiguous, overbroad and unduly burdensome and when referring to 2014, shall respond as if that term were defined as January 1, 2014 to March 10, 2014.

8. GTL objects to the Requests that do not contain a time limitation, and shall respond to all Requests for the time period January 1, 2011 to March 10, 2014.

9. GTL objects to the Requests to the extent they call for documents containing confidential information, including, but not limited to, proprietary, trade secret and/or commercially sensitive information, and objects to the production of any documents containing confidential information.

10. GTL objects to the Requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the proceeding, the amount in controversy, the parties’ resources, the importance of the issue or issues to which the Requests are directed and the importance of discovery in resolving such issue or issues.

11. GTL objects to the Requests to the extent that they seek production of documents that are not within GTL’s possession, custody or control.

12. GTL objects to the Requests on the ground that they seek the production of documents that are publicly available.

13. GTL objects to the Requests to the extent that they seek documents and information protected from disclosure by the attorney-client privilege, the common interest privilege or joint defense privilege, the attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. To the extent that the Requests seek such privileged or protected information, GTL hereby claims such privilege(s) and invokes such protection(s). Any documents or information disclosed in response

to the Requests shall be disclosed without waiving, but on the contrary, preserving and intending to preserve, each of these privileges and protections. Any inadvertent disclosure of privileged or protected information or documents shall not be deemed a waiver of the applicable privilege(s) or protection(s), and any such document and all copies and images thereof shall be returned to GTL upon demand and/or upon discovery of the inadvertent production.

14. In responding to these Requests, GTL does not waive or intend to waive but rather intends to preserve and is preserving:

- a. All objections as to the relevancy, materiality, admissibility, vagueness, ambiguity, or other infirmity in the form of the Requests and any objections based on the undue burden imposed by any of the Requests;
- b. All rights to object on any ground to the use of the answers, or their subject matter, in this proceeding or any other action;
- c. All rights to object on any ground to any further Requests or other discovery requests involving or related to the subject matter of the Requests; and;
- d. Any and all privileges and rights under any applicable law.

15. These responses are based upon information now known to GTL. GTL reserves the right to amend and/or supplement these Responses and Objections at any time.

16. Nothing in these responses shall be construed as constituting or implying an admission of any allegation or agreement with any assertion or characterization in the Requests.

17. GTL objects to the Requests to the extent that they require that documents be produced according to the numbered Request or Interrogatory to which each responds and shall

produce documents either in response to a Request or Interrogatory or as kept in the ordinary course of business.

18. In addition to the general objections set forth above, GTL will also state specific objections to the Requests where appropriate, including objections that are not generally applicable to each of the Requests. By setting forth such specific objections, GTL does not intend to limit or restrict the General Objections set forth above. To the extent that GTL responds to specific Requests, GTL is not waiving its stated objections by providing information. GTL's General Objections are incorporated in full into the specific responses set forth below.

OFFER TO CONFER

Counsel for GTL offers to confer in good faith with counsel for Petitioners regarding the responses to Petitioners' Requests.

SPECIFIC OBJECTIONS AND RESPONSES

DOCUMENT REQUEST No. 1:

Any and all documents identified in Petitioners' First Set of Interrogatories.

GTL Response to Document Request No. 1:

GTL repeats and restates the General Objections to this Request, and specifically General Objections #1, #3, #9, #10, #11, and #12. GTL further objects to this Request on the grounds that this Request is vague, ambiguous, overly broad and unduly burdensome, and that this Request seeks information that is confidential, is not reasonably calculated to lead to the discovery of admissible evidence, and is publicly available. GTL further objects to this Request on the grounds that this Request seeks information not relevant to the subject matter of this proceeding. GTL objects to producing copies of the contracts identified in GTL Response to Interrogatory No. 1 because the contracts are not relevant to an inquiry "into the per-call surcharge assessed by ICS providers; the tariffed service and other fees assessed by ICS providers; the telephone service quality provided by ICS providers; and the billing practices of ICS providers." *Interlocutory Order* at 2; *see also* General Objection #1 above. The contracts identified in GTL Response to Interrogatory No. 1 contain no information pertaining to the four areas of inquiry identified in the *Interlocutory Order*.

Without waiving the above General Objections, its Specific Objections to this request, and the General and Specific Objections identified in GTL's response to Petitioners' Interrogatories, GTL will produce the documents, if any, it listed in its Responses and Objections to Petitioners' First Set of Interrogatories dated April 29, 2014, except where such documents are not relevant to the subject matter of this proceeding, are publicly available, or are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

Specifically, GTL provides the following documents:

- 1) Global Tel*Link Corporation Massachusetts D.T.C. Tariff No. 2 (labeled as GTL 001-0033)
- 2) DSI-ITI, LLC Massachusetts Tariff No. 1 (labeled as GTL 0034-0068)

Person who will support GTL Response to Document Request No. 1:

John Canny, Account Manager, Global Tel*Link Corporation

DOCUMENT REQUEST No. 2:

To the extent that any formal documentation was created in connection to the complaints listed in Interrogatory 16 please provide a copy of that documentation.

GTL Response to Document Request No. 2:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #10, and #11. GTL further objects to this Request because the term “formal documentation” is vague and ambiguous and because the Request seeks confidential information and improperly assumes that GTL received “complaints listed in Interrogatory 16.” GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. Without waiving its General Objections or its Specific Objections to this Request and the General and Specific Objections identified in GTL’s response to Petitioners’ Interrogatories, GTL responds that it will produce such documents if any are located, except where such documents are publicly available, are beyond the scope of this proceeding, or are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 3:

Any and all documents that define your current corporate and security quality goals.

GTL Response to Document Request No. 3:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the terms “define” and “current corporate and security quality goals” are vague and ambiguous, and the Request is overbroad and unduly burdensome, is not reasonably calculated to lead to the discovery of admissible evidence, seeks documents that are confidential and not relevant to the subject matter of this proceeding. Documents regarding GTL’s “corporate and security quality goals” are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 4:

Any and all documents concerning policies regarding the provision of inmate calling services including issues such as quality, security, network outages, pricing, and dropped calls.

GTL Response to Document Request No. 4:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because it overly broad and unduly burdensome, seeks documents that are confidential and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Request on the grounds that it seeks information that is not relevant to the subject matter of this proceeding. Documents concerning security and network outages are beyond the scope of this proceeding as “the availability and upkeep of telecommunications equipment at correctional facilities” specifically was excluded from inquiry by the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. Without waiving its General Objections or its Specific Objections to this Request and the General and Specific Objections identified in GTL’s response to Petitioners’ Interrogatories, GTL responds that it will produce documents concerning policies regarding quality of ICS telephone service provided by GTL including dropped calls, if any are located, except where such documents are publicly available, are beyond the scope of this proceeding, or are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 5:

Any and all documents concerning the amount of revenues and expenses incurred in relation to each year of each contract identified in response to Interrogatory No. 1. Such documentation would include financial statements, budget performance reports, management report, and any documentation in relation to the payment of site commissions.

GTL Response to Document Request No. 5:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #1. GTL further objects to this Request on the grounds that this Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents regarding “financial statements, budget performance reports, management report[s], and any documentation in relation to the payment of site commissions” are not relevant to “the per-call surcharge assessed by ICS providers” or the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 6:

Any document listing or describing the costs associated with providing ICS to Massachusetts consumers.

GTL Response to Document Request No. 6:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, #11, and #12. GTL further objects to this Request on the grounds that this Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 7:

Any document (a) identifying or describing fees charged by your company to consumers of inmate calling services in Massachusetts for establishing, using, maintaining or closing a pre-paid account, (b) listing amounts collected for any such fee or (c) referencing the disposition of such fees once they have been collected.

GTL Response to Document Request No. 7:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, #11, and #12. GTL further objects to this Request on the grounds that this Request is vague, ambiguous, overly broad and unduly burdensome, that is confidential and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Request on the grounds it seeks information not relevant to the subject matter of this proceeding. Documents relating to amounts collected for fees and the disposition of such fees once they have been collected are not relevant to “the per-call surcharge assessed by ICS providers” or the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. GTL further objects to this Request on the grounds that it seeks information that is publicly available in GTL’s Massachusetts tariffs (Global Tel*Link Corporation Massachusetts D.T.C. Tariff No. 2 and DSI-ITI, LLC Massachusetts Tariff No. 1), on GTL’s website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff’s Department and Correctional Facility website, and on the Norfolk County Sheriff’s Office website.

DOCUMENT REQUEST No. 8:

Any and all documents prepared for upper management or a member or members of the Board of Directors that discusses directly or indirectly the performance of your provision of inmate services in Massachusetts. Please include any and all reports that compare such performance with that of your company's provision of inmate services in other states.

GTL Response to Document Request No. 8:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the Request is duplicative, vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents discussing "performance of [GTL's] provision of inmate services in Massachusetts" are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 9:

Any and all documentation that shows the overall profitability of your operations in Massachusetts for 2011, 2012, 2013 and for 2014.

GTL Response to Document Request No. 9:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents regarding GTL's "overall profitability of [GTL's] operations in Massachusetts" are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 10:

Any and all documentation comparing the total amounts of commissions that were paid in Massachusetts in 2011, 2012, 2013 and in 2014.

GTL Response to Document Request No. 10:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents regarding “total amounts of commissions that were paid in Massachusetts” are not relevant to “the per-call surcharge assessed by ICS providers” or the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 11:

Any and all documents, reports or analyses that track quality performance by facility, region or state that would cover Massachusetts for the years 2011, 2012, 2013, and 2014. These documents might track things like trouble reports, quantities of dropped calls, network outages, and other related quality assurance issues you might measure or track.

GTL Response to Document Request No. 11:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the terms “track,” “measure,” “quality performance,” “trouble reports,” and “other related quality assurance issues” are vague and ambiguous and the Request is overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 12:

If you pay sales commissions or other incentives to employees based upon getting new jails and prisons as customers or for renewing and extending existing contracts, please provide any and all documents concerning performance goals and standards that are used to define how sales commissions are earned.

GTL Response to Document Request No. 12:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents regarding “sales commissions or other incentives to employees” or “performance goals and standards that are used to define how sales commissions are earned” are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 13:

Any and all documents including cost studies, budget analysis or management reports that calculate your cost of and/or revenue derived from providing calling services in Massachusetts from 2011 to the present.

GTL Response to Document Request No. 13:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 14:

Any and all documents including cost studies, budget analysis or management reports relating to the years 2011 to the present that concern segregating your costs in Massachusetts between the call set up function that is recovered by the surcharge and the costs that are recovered by any per minute or other charges.

GTL Response to Document Request No. 14:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 15:

Any and all documents including reports that show completed and billed minutes by facility that would cover Massachusetts for the fiscal years of 2011, 2012, 2013 and 2014.

GTL Response to Document Request No. 15:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is confidential and not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents regarding “completed and billed minutes” are not relevant to “the per-call surcharge assessed by ICS providers” or the other three areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 16:

A copy of your most recent tariff filing with the Massachusetts DTC. If this is available online please provide the web address instead.

GTL Response to Document Request No. 16:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #10, #11, and #12. Without waiving its General Objections or its Specific Objections to this Request and the General and Specific Objections identified in GTL's response to Petitioners' Interrogatories, see GTL's Response to Document Request No. 1.

Person who will support GTL Response to Document Request No. 16:

John Canny, Account Manager, Global Tel*Link Corporation

DOCUMENT REQUEST No. 17:

Any and all documented communications with Massachusetts governmental agencies and/or private contractors that manage or supervise prison facilities in Massachusetts concerning the provision of inmate calling services in the Massachusetts facilities listed in response to No.1.

GTL Response to Document Request No. 17:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is publicly available or not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documented communications with Massachusetts governmental agencies and/or private contractors that manage or supervise prison facilities in Massachusetts are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 18:

Any and all documented communications concerning your lobbying activities or other governmental advocacy work related to your provision of inmate calling services for the years 2011, 2012, 2013 and 2014.

GTL Response to Document Request No. 18:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is publicly available or not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents regarding “lobbying activities or other governmental advocacy work” are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 19:

Any and all documents including contracts and addendums concerning agreements with entities that conduct billing services for your inmate calling operations in Massachusetts.

GTL Response to Document Request No. 19:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, and #11. GTL further objects to this Request because the term “conduct billing services” is vague and ambiguous and the Request is overly broad and unduly burdensome and seeks information that is confidential or not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents “with entities that conduct billing services” are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable.

DOCUMENT REQUEST No. 20:

Your promotional and marketing materials concerning any and all aspects of your provision of inmate calling services from 2011 to the present.

GTL Response to Document Request No. 20:

GTL repeats and restates its General Objections to this Request, and specifically General Objections #1, #3, #9, #10, #11, and #12. GTL further objects to this Request because the Request is vague, ambiguous, overly broad and unduly burdensome, seeks information that is publicly available or not relevant to the subject matter of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Documents regarding “promotional and marketing materials” are not relevant to the four areas of inquiry identified in the *Interlocutory Order*. GTL further objects to this Request to the extent that it seeks production of documents that are protected from disclosure by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege, protection or immunity that makes such information non-discoverable. GTL further objects to this Request on the grounds that it seeks information that is publicly available on GTL’s website, in the GTL procedures and information booklets posted on the Massachusetts Department of Corrections website, via the links and information found in Massachusetts Department of Corrections Friends and Family Handbook, on the Plymouth County Sheriff’s Department and Correctional Facility website, and on the Norfolk County Sheriff’s Office website.

CERTIFICATE OF SERVICE

I, Angela F. Collins, certify on this 29th day of April, 2014, that I served a copy of
Global Tel*Link Corporation's Responses and Objections to Petitioners' First Set of Requests
for Production of Documents on the following via the method indicated:

Catrice C. Williams, Secretary
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820
Boston MA 02118-6500
Email: catrice.williams@state.ma.us
Email: dtcefilng@massmail.state.ma.us
Via Federal Express and Electronic Mail

Kalun Lee
Hearing Officer
Department of Telecommunications and Cable
1000 Washington Street, 8th Floor, Suite 820
Boston MA 02118-6500
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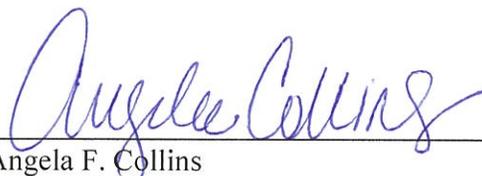
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