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June 23, 2011

Catrice C. Williams, Secretary
Department of Telecommunications & Cable
Commonwealth of Massachusetts
1000 Washington Street, Suite 820
Boston, Massachusetts 02110

Re: D.T.C. 11-XX – In the Matter of Tariff of Global Tel*Link Corporation
Imposing a Wireless Termination Surcharge

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding is the Complaint of the Wireless Providers for Modification of Tariff of Global Tel*Link Corporation.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "AM Moore", written over a horizontal line.

Alexander Moore

cc: Robin Norton, Consultant to Global Tel*Link Corporation
Karlen Reed, Director – Competition Division

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

**In the Matter of Tariff of Global Tel*Link
Corporation Imposing a Wireless Termination
Surcharge**

D.T.C. No. _____

**COMPLAINT OF THE WIRELESS PROVIDERS FOR
MODIFICATION OF TARIFF OF GLOBAL TEL*LINK CORPORATION**

Pursuant to M.G.L. Chapter 159, § 14, and 220 CMR §1.04(1)(d), Cellco Partnership, d/b/a Verizon Wireless (“Verizon Wireless”), New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, T-Mobile Northeast LLC, Sprint Spectrum L.P., Nextel Communications of Mid-Atlantic, Inc., Virgin Mobile USE, L.P. and CTIA – The Wireless Association (collectively, “the Wireless Providers”),¹ hereby petition the Department to investigate and modify the inmate-calling services tariff of Global Tel*Link Corporation (“Global”), Global D.T.C. Tariff No. 2 (“the Tariff”). Global recently revised the Tariff to impose a “Wireless Termination Surcharge” of 4% when inmates place calls to wireless telephones.² The surcharge does not apply to calls to landline phones. The surcharge is unjust and unreasonable, results in rates that differ among customers despite substantially similar circumstances, and discriminates against Massachusetts consumers who rely on wireless telephone service, all in direct contravention of M.G.L. c. 159, §§ 14 and 17. Accordingly, the Wireless Providers request that the Department investigate

¹ The submission of this Petition by the Wireless Providers does not imply consent to Department regulation of wireless carriers, wireless services, or matters within the exclusive jurisdiction of the Federal Communications Commission (“FCC”).

² Global filed its tariff revision on March 17, 2011 for effect on April 17, 2011. A copy of that filing is attached hereto as Exhibit A.

Global's tariff and order Global to withdraw the unjust, unreasonable and discriminatory surcharge provision.³

Background

Global provides telecommunications services and facilities to correctional institutions in Massachusetts and elsewhere. Upon information and belief, some of these services and facilities are used by the inmates to make telephone calls – frequently to family members residing in Massachusetts. Global provides automated collect-calling and prepaid services for these inmate-originated calls. Global's prepaid calling arrangements include "inmate prepay," where inmates purchase prepaid calling vouchers from the correctional facility or commissary, and "destination prepay," where often-called parties (such as inmate family members and friends) set up prepaid calling accounts to pay for the inmate's calls to their respective telephone numbers.

When an inmate uses Global's inmate-prepay calling service to make a call, the inmate is the "customer" responsible for the charges under Global's tariff. When an inmate uses Global's collect-calling or destination-prepay service to make a call, the called party (not the inmate) is the "customer" responsible for payment. Global's tariff revisions add a "Wireless Termination Surcharge" to the "miscellaneous charges" applicable to all inmate-originated calls:

3.7.1 Wireless Termination Surcharge

For calls terminating to wireless devices, the Company reserves the right to impose a surcharge of 4% of the total cost of a completed call (excluding taxes and fees) to offset the prevalence of wireless device arbitrage and adjust for loss of LATA-rating assurance.

See Exhibit A.

³ On April 1, 2011, the Iowa Utilities Board suspended similar tariff revisions and initiated an investigation into the lawfulness of Global's Wireless Termination Surcharge. (Order Suspending Tariff, Docketing for Further Investigation, and Requesting Comments, *In re: Global Tel*Link Corporation*, Docket No. TF-2011-0031 (Iowa Utils. Bd. Apr. 1, 2011).) A copy of the Iowa Board's order is attached hereto as Exhibit B. In addition, Global withdrew similar tariff revisions in New York and Maryland after CMRS providers protested.

Global had provided no valid explanation of, or support for, the “Wireless Termination Surcharge.” The Tariff does not define or explain the terms, “wireless device arbitrage” or “loss of LATA-rating assurance,” nor did Global’s March 17 tariff filing provide any basis for its apparent beliefs that these purported issues require a per call surcharge and that 4% is a just and reasonable amount for any such surcharge. The Tariff language contains no detail that explains how and when Global will determine whether the undefined, unproven “arbitrage” and “loss of LATA-rating assurance” issues come into play.

The Wireless Providers are commercial mobile radio service (“CMRS”) providers providing mobile telecommunications to subscribers within the Commonwealth of Massachusetts pursuant to licenses issued by the Federal Communications Commission. Global’s wireless termination surcharge discriminates against the mobile services provided by the Wireless Providers to their subscribers, because the surcharge applies only when a Global customer calls a wireless subscriber but does not apply when a Global customer calls a subscriber of wireline telecommunications services. Moreover, the term “wireless device arbitrage” disparages the wireless services being provided by the Wireless Providers, because it suggests that the Providers are committing some type of violation of federal or state laws governing the provision of telecommunications services.

The Surcharge Is Unjust And Unreasonable.

M.G.L. c. 159, § 17 requires common carriers to charge just and reasonable rates for their regulated services:

[A]ll charges made, demanded or received by any common carrier for any service rendered or performed ... in the conduct of its common carrier business ... shall be just and reasonable, ... and every unjust or unreasonable charge is hereby prohibited and declared unlawful....

Global's Wireless Termination Surcharge is neither just nor reasonable. Global's filing does not explain how "wireless device arbitrage" or "loss of LATA-rating assurance" – terms undefined by the tariff – should lead to increased rates for some customers, much less an arbitrary per-call surcharge of 4%. To the contrary, since wireless call termination charges are generally substantially lower than local exchange carriers' intrastate terminating access charges, inmate calls to wireless phones are likely to cost Global *less* than calls to wired phones.

The FCC long ago held that telephone calls exchanged between a local exchange carrier and a CMRS provider which are originated and terminated within a single major trading area ("MTA") are local calls that are subject to reciprocal compensation obligations, as opposed to the access charge regime.⁴ Based on the vague language in the Tariff, Global might seek to justify the surcharge on the grounds that some of these local calls to wireless subscribers would be toll calls if made to a landline phone in the same location (because MTAs are generally much larger than local calling areas for landline calls). While Global would have to pay terminating access charges on such landline toll calls, it would also be allowed to assess toll charges on its inmate customers. Under this thinking, the surcharge would compensate Global for the theoretical "lost profits" it would have earned if the calls to wireless subscribers had been placed to landline phones instead. But under this justification, Global's purported "Wireless

⁴ See 47 C.F.R. § 51.701(b)(2) ("Telecommunications traffic. For the purposes of this subpart, telecommunications traffic means:...(2) Telecommunications traffic exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter."); see also *In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 16014, at ¶ 1036 (1996) ("Because wireless licensed territories are federally authorized, and vary in size, we conclude that the largest FCC-authorized wireless license territory (i.e., MTA) serves as the most appropriate definition for local service area for CMRS traffic for purposes of reciprocal compensation under section 251(b)(5).... Accordingly, traffic to or from a CMRS network that originates and terminates within the same MTA is subject to transport and termination rates under section 251(b)(5), rather than interstate and *intrastate access charges*." (emphasis added), *modified*, 11 FCC Rcd 13042 (1996), *vacated in part*, 120 F.3d 753 (8th Cir. 1997), *aff'd in part and rev'd in part*, 525 U.S. 366 (1999).

Termination Surcharge” is just a toll charge by another name, and Global cannot assess toll charges on intra-MTA calls to wireless subscribers, because they are local calls. In other words, the Tariff is an improper attempt by Global to circumvent the FCC’s regulations by charging for intra-MTA calls to wireless subscribers *as if they were toll calls*, even though the FCC has ruled that they are not. The surcharge is thus unjust, unreasonable and unlawful.

Furthermore, the proposed tariff language fails to specify how and when Global will determine whether the undefined “arbitrage” and “loss of LATA-rating assurance” issues come into play. It is possible that the undefined term “loss of LATA-rating assurance” refers to an inability on Global’s part to determine whether an inmate’s call to a wireless device is a local call or toll call under Global’s Tariff. However, the Tariff does not provide a means of determining the location of wireless subscribers for rating purposes. Instead, Global reserves to itself an unlimited right to unilaterally impose the surcharge, without delineating the factual circumstances or conditions under which it will exercise that right, so no customer can know whether and when the surcharge will apply.

The Surcharge Is Discriminatory.

M.G.L. c. 159, § 14 authorizes the Department to investigate whether rates and charges of common carriers are, among other things, “unjustly discriminatory” and, in the appropriate case, to determine the just and reasonable rates to be charged and to “fix the same by order....” Global’s Wireless Termination Surcharge violates this provision. The service provided by Global when an inmate makes a call is the same whether the call is to a landline phone or to a wireless phone in the same location. If an inmate makes a collect or destination-prepaid call to his or her spouse at home on their landline phone, the spouse, as the “customer” under

Global's tariff, is charged the tarified rate for the call. If the inmate then makes a collect or destination-prepaid call to their next-door neighbor sitting on his porch with his wireless phone, the neighbor is charged the tarified rate *plus* the 4% surcharge. The Wireless Termination Surcharge thus permits Global to charge higher rates to different customers under substantially similar circumstances, in violation of the rate discrimination statute. Communications regulatory policy should promote a level playing field among and between competing technologies and not foster such discrimination.

Moreover, Global's proposed Wireless Termination Surcharge causes undue and unreasonable prejudice to Massachusetts residents who do not subscribe to wireline local phone service. As of June 2010 more than one out of four (26.6%) American households had abandoned wireline service completely in favor of wireless.⁵ If an inmate's family has both wireline and wireless service, the family might avoid the Wireless Termination Surcharge by having the inmate call only the wireline phone. However, if the household is one of the 26.6% of American households that are wireless-only, or if the family members are among the third of the nation's low-income adults that rely exclusively on wireless service,⁶ the family must accept the Wireless Termination Surcharge in order to speak with their incarcerated husband, wife, father, mother, son or daughter.

⁵ S. Blumberg & J. Luke, Wireless substitution: Early release of estimates from the National Health Interview Survey, January–June 2010, at Table 1 (National Center for Health Statistics, Dec. 21, 2010) ("CDC Wireless Substitution Report"), available online at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201012.pdf>.

⁶ According to the Centers for Disease Control, 39.3 percent of "poor" adults and 32.9 percent of "near poor" adults lived in wireless-only households as of June 2010. *CDC Wireless Substitution Report, supra*, Table 2. The CDC study uses U.S. Census Bureau's poverty thresholds and defines poor and near poor as follows: "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. *See id.* at footnote 3 to Table 2.

CONCLUSION

For the foregoing reasons, the Wireless Providers respectfully request that the Department find that new § 3.7.1 of Global Tel*Link Corporation's D.T.C. Tariff No. 2 allowing Global to impose a Wireless Termination Surcharge on calls to wireless telephones is unjust, unreasonable and unjustly discriminatory in violation of law and, based on that finding, order Global to withdraw that section of its tariff.

Please enter the following appearances on behalf of the individual wireless carriers:

For Cellco Partnership d/b/a Verizon Wireless:

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For T-Mobile Northeast LLC:

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***For Sprint Spectrum, L.P., Nextel
Communications of the Mid-Atlantic, Inc.,
Virgin Mobile USA, L.P.:***

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**For – CTIA – The Wireless
Association®:**

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Respectfully submitted,

VERIZON WIRELESS

By its attorneys



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Also filed on behalf of:

NEW CINGULAR WIRELESS PCS, LLC d/b/a
AT&T MOBILITY

SPRINT SPECTRUM, L.P., NEXTEL
COMMUNICATIONS OF THE MID-ATLANTIC,
INC., VIRGIN MOBILE USA, L.P.

T-MOBILE NORTHEAST LLC

CTIA – THE WIRELESS ASSOCIATION®

Dated: June 23, 2011

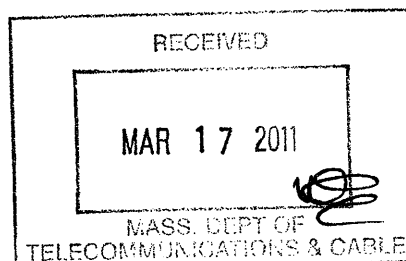
Exhibit A



GTC-MA-2
Dunesh

March 16, 2011
Via Overnight Delivery & Email

Ms. Catrice Williams, Secretary
Massachusetts Department of Telecommunications & Cable (DTC)
1000 Washington Street, Suite 820
Boston, MA 02118-6500



RE: **Global Tel*Link Corporation**
Tariff Revision for M.D.T.E. Tariff No. 2

Dear Ms. Williams:

Enclosed for filing please find the original and one (1) copy of revised tariff pages submitted on behalf of Global Tel*Link Corporation. The purpose of this revision is to add wireless termination surcharge language. The Company requests an effective date for this filing of March 17, 2011. Also enclosed is a check in the amount of \$100 to cover the filing fee.

The following revised tariff pages are included with this filing:

5 th Revised Page 1	Updates Check Sheet
Original Page 29	Adds additional rate option for Institutional Collect-Only Rates

Please acknowledge receipt of this filing by date-stamping the extra copy of this cover letter and returning it to me in the self-addressed, stamped envelope provided for that purpose. Any questions you may have regarding this filing may be directed to my attention at (407) 740-3004 or via email to morton@tminc.com. Thank you for your assistance.

Sincerely,

Robin Norton
Consultant to Global Tel*Link Corporation

RN/ks

cc: Dorothy Cukier - Global Tel*Link
file: Global Tel*Link - MA
tms: MAn1101

PAID
\$100

CHECK SHEET

Pages of this tariff, as indicated below, are effective as of the date shown at the bottom of the respective pages. Original and revised pages, as named below, comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this page.

PAGE	REVISION		PAGE	REVISION
Title	Original		26	1 st Rev.
1	5 th Rev.	*	27	2 nd Rev.
2	Original		28	2 nd Rev.
3	Original		28.1	1 st Rev.
4	Original		29	Original
5	Original			
6	Original			
7	Original			
8	Original			
9	Original			
10	Original			
11	Original			
12	Original			
13	Original			
14	Original			
15	Original			
16	Original			
17	Original			
18	Original			
19	Original			
20	Original			
21	1 st Rev.			
22	1 st Rev.			
22.1	Original			
22.2	Original			
23	1 st Rev.			
24	2 nd Rev.			
25	1 st Rev.			

* - indicates those pages included with this filing

Issued: March 17, 2011

Effective: April 17, 2011

Issued by: Jeffrey B. Haidinger, President
12021 Sunset Hills Road, Suite 100
Reston, VA 20190

MAn1101

SECTION 3 - DESCRIPTION OF SERVICE AND RATES, CONT'D.

3.7 Miscellaneous Charges

(N)

3.7.1 Wireless Termination Surcharge

For calls terminating to wireless devices, the Company reserves the right to impose a surcharge up to 4% of the total cost of a completed call (excluding taxes and fees) to offset the prevalence of wireless device arbitrage and adjust for loss of LATA-rating assurance.

(N)

Issued: March 17, 2011

Effective: April 17, 2011

Issued by: Jeffrey B. Haidinger, President
12021 Sunset Hills Road, Suite 100
Reston, VA 20190

MA1101

Exhibit B

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

GLOBAL TEL*LINK CORPORATION

DOCKET NO. TF-2011-0031

**ORDER SUSPENDING TARIFF, DOCKETING FOR
FURTHER INVESTIGATION, AND REQUESTING COMMENTS**

(Issued April 1, 2011)

On March 3, 2011, Global Tel*Link Corporation (Global Tel) filed with the Utilities Board (Board) a proposed tariff revision, identified as TF-2011-0031. Global Tel proposes to add a new miscellaneous charge entitled "Wireless Termination Surcharge" of up to four percent of the total cost of a completed call, which is intended to offset the prevalence of wireless device arbitrage. Global Tel is an Alternative Operator Services (AOS) company pursuant to Iowa Code § 476.91 and provides inmate calling services.¹

On March 17, 2011, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to Global Tel's proposed tariff and requests that the Board docket the proposed tariff for further investigation. Consumer Advocate states that Global Tel has failed to provide an explanation or support for the proposed tariff revision. Consumer Advocate argues that pursuant to

¹ Iowa Code § 476.91(1)"a" defines an AOS company as a "nongovernmental company which receives more than half of its Iowa intrastate telecommunications services revenues from calls placed by end-user customers from telephones other than ordinary residence or business telephones. The definition is further limited to include only companies which provide operator assistance ... on calls placed from other than ordinary residence or business telephones, and does not include services provided under contract to rate-regulated local exchange utilities."

199 IAC 22.19(2), AOS companies like Global Tel, must provide services pursuant to Board approved tariffs covering both rates and services.² According to Consumer Advocate, to obtain Board approval for rates, AOS companies need show only that the rates they propose are "at or below the corresponding rates for similar services of utilities whose rates have been approved by the board in a rate case or set in a market determined by the board to be competitive."³ Consumer Advocate contends that Global Tel has not provided a statement or supporting evidence to demonstrate that a similar wireless termination surcharge is charged by other utilities whose rates have been set in a competitive market or that the resulting charges to customers do not exceed the rate ceiling set by Board rule.⁴

Consumer Advocate asserts that even if Global Tel can show that the proposed surcharge will not exceed the Board's rate cap for AOS companies, security concerns inherent in the provision of inmate calling service remain.⁵ Consumer Advocate also states that inmate calling service providers must provide sufficient information to permit the Board to determine whether the proposed tariff rates and service standards are just, reasonable, and nondiscriminatory under 199 IAC 22.1(1) and 22.2(3).⁶

According to Consumer Advocate, GlobalTel's proposed tariff revision did not provide a definition or explanation of the tariff terms "wireless device arbitrage" or "loss of LATA-rating assurance" and did not explain the basis for its belief that these

² Consumer Advocate Objection, p. 2.

³ Id., quoting 199 IAC 22.12(1).

⁴ Id.

⁵ Id., at 2-3.

⁶ Id., at 3.

problems are so prevalent that a per call surcharge is required.⁷ Consumer Advocate contends that Global Tel appears to be reserving to itself an unlimited right to impose a surcharge without delineating the factual circumstances or conditions under which it will exercise that right, so customers may not know when the surcharge will apply.⁸ Consumer Advocate states that Global Tel's reservation of authority to impose the surcharge without restriction also appears to permit Global Tel to discriminate among customers in violation of Iowa law.⁹

Pursuant to Iowa Code § 476.91(2), all intrastate telecommunications services provided by AOS companies are subject to the Board's jurisdiction and to all requirements of chapter 476, including the sections giving the Board retail rate making authority.¹⁰ Rule 199 IAC 22.12(1) establishes a safe harbor for AOS rates; the rates of AOS companies may not exceed the rates for similar services provided by utilities whose rates have been approved by the Board in a rate case or set in a market that the Board has determined to be competitive. If an AOS company proposes rates outside this safe harbor, it must support those rates. Consequently, if the rates proposed by Global Tel in its tariff revision would ultimately exceed the rates of corresponding operator services provided by other carriers, then Global Tel must justify the higher rate in a rate proceeding. Consumer Advocate asserts the proposed rates have not been shown to qualify for the safe harbor, so a rate case appears to be necessary. The Board agrees. However, the Board's rules are silent

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ See Iowa Code §§ 476.1, 476.2, 476.3, 476.4, 476.5, and 476.6.

regarding the specific standards and procedures to be applied, allowing a flexible approach tailored to these circumstances.

Therefore, the Board will suspend GlobalTel's proposed tariff revision for further investigation and requests comments from GlobalTel, Consumer Advocate, and other interested parties regarding the appropriate proceeding and methodology by which to review GlobalTel's proposed tariff revision. The Board will establish a procedural schedule upon a determination of an appropriate proceeding and rate review methodology.

IT IS THEREFORE ORDERED:

1. The proposed tariff revision filed by Global Tel*Link Corporation on March 3, 2011, identified as TF-2011-0031, is suspended and docketed for further investigation as described in this order.

2. The Board requests comments regarding the appropriate proceeding and rate review methodology for an investigation of the tariff revision filed by Global Tel*Link Corporation on March 3, 2011, identified as TF-2011-0031, on or before April 15, 2011.

UTILITIES BOARD

/s/ Robert B. Berntsen

/s/ Krista K. Tanner

ATTEST:

/s/ Joan Conrad
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 1st day of April 2011.