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November 22, 2005

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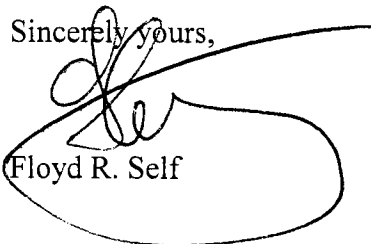
Ms. Blanca Bayó, Director
Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Dear Ms. Bayó:

Enclosed for filing on behalf of Global Tel*Link Corporation is an original and 15 copies of Global Tel*Link Corporation's Petition for Declaratory Statement or, In the Alternative, Petition for Waiver of Rule.

Please acknowledge receipt of this document by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,

Floyd R. Self

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Enclosures

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EPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Global Tel*Link)
Corporation for Exemption from)
Florida Administrative Code)
Rule 25-24.515(22).)
_____)

Docket No. 050892-TP
Filed: November 22, 2005

**PETITION FOR DECLARATORY STATEMENT
OR, IN THE ALTERNATIVE,
PETITION FOR WAIVER OF RULE**

Global Tel*Link Corporation (“Global”), pursuant to Section 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code, hereby files this Petition for a Declaratory Statement from the Florida Public Service Commission regarding the applicability of Rule 25-24.515(22), Florida Administrative Code, when requested by an authorized official of a correctional institution to terminate a three way call. In the alternative, Global, pursuant to Sections 120.542, 364.337(4), and 364.3375, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, hereby files this Petition For Waiver with the Florida Public Service Commission (“Commission”) for a waiver or exemption from the provision of Rule 25-24.515(22), Florida Administrative Code, requiring a minimum elapsed time for all telephone calls from confinement facilities within the state of Florida. In support of its Petitions, Global states as follows:

I. Allegations Applicable to Both Petitions

1. Petitioner’s name and address are:

Global Tel*Link Corporation
2609 Cameron Street
Mobile, Alabama 36607

2. All notices, Orders or documents regarding this Petition should be directed to:

Lynda Gaston
Regulatory Manager
Global Tel*Link Corporation
2609 Cameron Street
Mobile, Alabama 36607
800/489-4500 ext. 2215 (phone)
251/473-4588 (facsimile)

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3. Global is certificated by the Commission to provide pay telephone service pursuant to Certificate Number 3878, and is registered with the Commission as an intrastate interexchange carrier.

4. Global has contracted with confinement facilities within the state of Florida, primarily county jail facilities, to provide pay telephone services which permit inmates to place outbound, collect-only calls. Global recently acquired contracts to provide inmate pay phone services at additional confinement facilities, including the Miami-Dade County Correctional Institute. Each of the facilities with which Global contracts for pay telephone services, including those for which the contracts have been recently acquired, have policies and procedures intended to control the use of telephones by their inmate populations. Global is contractually required to abide by and cooperate in the implementation of those policies and procedures.

5. In order to prevent inmates from contacting their victims, or from continuing criminal activities through known outside contacts, the chief correctional officials of the confinement facilities served by Global require that certain numbers be blocked from being called from within the facility. Global is required to ensure that its pay telephones cannot be used by inmates to call numbers that have been blocked using standard two-way calling.

6. Correctional officials have reported that inmates have been able to circumvent the call blocking process and other facility rules by having a dialed-party accomplice connect a three-way call. In that case, the inmate makes a call to a number that is not blocked, and the recipient of that call connects the call to a blocked third-party number or to some other third-party. By so doing, the public interest underlying the policy of not allowing inmates to communicate with certain persons is undermined, and the confinement facility policy in blocking or limiting calls to certain numbers is defeated. For that reason, some of the confinement facilities served by Global do not allow third-party calling from the confinement facility.

7. The policies and procedures of the confinement facilities can be effectively implemented only by terminating inmate calls when three-way calls are initiated, regardless of whether the call has been ongoing for a minimum elapsed time of ten minutes. Third-party calls must be terminated because it is not possible for the facility to know the third-party being dialed. If the inmate was making a call to a permissible third-party, then the inmate could simply initiate a separate, independent call to that party. Based upon the experience of the facility, it is their professional experience that these third-party calls are being made to otherwise blocked numbers or for some other potentially improper or illegal purpose. For these reasons, the chief correctional officers of the confinement facilities have requested that Global terminate calls whenever an attempt to connect a third-party to the call is attempted, which Global's equipment is capable of doing. Due to the overriding public interest in ensuring the security of the confinement facilities, protecting innocent third-parties from harassment from inmates, preventing contact with unknown third-parties, and the plenary authority of correctional officials over the operations of those facilities, Global does not believe that it can refuse such a lawful request.

8. Rule 25-24.515(21), Florida Administrative Code, provides that "[p]roviders serving confinement facilities shall provide for completion of all inmate calls **allowed by the confinement facility.**" (e.s.) Rule 25-24.515(22), Florida Administrative Code, provides in pertinent part that:

Pay telephone stations located in confinement facilities . . . shall also be exempt from the requirements of subsection (9), except that outgoing local and long distance calls may not be terminated until after a minimum elapsed time of ten minutes. . . .

Since third-party calling is not allowed by the confinement facilities, there is a potential conflict between Rule 25-24.515(21) and Rule 25-24.515(22) when outgoing local and long distance calls are used as a means to facilitate third-party calls. While Global believes it is possible to reconcile these rules by the processes and procedures it has undertaken, at this time Global believes it is appropriate to seek a formal statement from the Commission with respect to this legal question or to obtain the necessary waiver.

II. Petition for Declaratory Statement

9. Global Tel*Link Corporation adopts and incorporates paragraphs 1 through 8 as though fully set forth herein.

10. A petition seeking a declaratory statement is appropriate when there is a need for "resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority." Section 120.565(1), Florida Statutes. Given the plenary authority of correctional officials over the operation of confinement facilities, the public purpose in preventing inmate access to blocked numbers, and the requirement that Global complete inmate calls only as "allowed by the confinement facility," Global is in need of a declaratory statement to resolve questions or doubts as to how 25-

24.515(22), Florida Administrative Code, may apply to Global's particular circumstances.

11. The statutes and rules on which the declaratory judgment is sought include the following:

a. Section 951.06(2), Florida Statutes, which provides that "[a]ll chief correctional officers of prisoners shall see that all rules and regulations prescribed by law or the department are fully observed and complied with. . . ."

b. Section 951.061(2), which provides that "the sheriff or his or her designee shall enforce all existing state law concerning the operation and maintenance of county jails."

c. Rule 25-24.515(21), Florida Administrative Code, which provides that "[p]roviders serving confinement facilities shall provide for completion of all inmate calls allowed by the confinement facility."

d. Rule 25-24.515(22), Florida Administrative Code, which provides in pertinent part that:

Pay telephone stations located in confinement facilities . . . shall also be exempt from the requirements of subsection (9), except that outgoing local and long distance calls may not be terminated until after a minimum elapsed time of ten minutes. . . .

12. Global is substantially affected by a construction of Rule 25-24.515(22), Florida Administrative Code, that may conflict with the requirement of Rule 25-24.515(21), Florida Administrative Code, which provides for calls only to the extent allowed by the facility, and with the cited provisions of Chapter 951, Florida Statutes, which places ultimate control over confinement facilities in the hands of the chief correctional officer. Such a construction of Rule 25-24.515(22), Florida Administrative Code, may expose Global to penalties and sanctions by the Commission for terminating inmate calls that are accessing third-party numbers after fewer

than ten minutes have elapsed, even when such calls are not allowed by the chief correctional officer of the facility.

13. For the reasons set forth herein, Global Tel*Link Corporation requests that the Commission issue a Declaratory Statement that Rule 25-24.515(22), Florida Administrative Code, does not require Global to connect outgoing local and long distance inmate calls for a minimum elapsed time of ten minutes, when doing so would violate the practices and procedures of a confinement facility, and would allow inmates to complete calls that are not allowed by the confinement facility.

III. Petition for Waiver of Rule

14. If the Commission determines that Rule 25-24.515(22), Florida Administrative Code, requires Global to connect outgoing local and long distance inmate calls for a minimum elapsed time of ten minutes regardless of whether such calls are allowed by the confinement facility, Global hereby petitions for a waiver of that rule to the extent necessary to allow the effective implementation of the public policy in restricting access to blocked numbers, and the practices and procedures of the confinement facility in restricting third-party calls.

15. Global Tel*Link Corporation adopts and incorporates paragraphs 1 through 13 as though fully set forth herein.

16. The rule from which a waiver or exemption is sought, Rule 25-24.515(22), Florida Administrative Code, provides in pertinent part that:

Pay telephone stations located in confinement facilities . . . shall also be exempt from the requirements of subsection (9), except that outgoing local and long distance calls may not be terminated until after a minimum elapsed time of ten minutes. . . .

This request does not seek a complete waiver from the rule, but only a waiver to prevent

unlawful access to third-party numbers contrary to the practices and procedures of Global's confinement facility customers as described herein.

17. The Rule implements Sections 364.03, 364.035, 364.063, 364.337, 364.3375, and 364.345, Florida Statutes. The sections pertinent to this Petition are Sections 364.337 and 364.3375, Florida Statutes.

18. Rule 25-24.515(22) should not be interpreted to allow the circumvention of correctional facility policy restricting inmate communications to blocked numbers. Allowing the termination of calls at any time during the call when the called party attempts to connect a third-party will have no effect on an inmate's ability to place a normal two-way call, and to be connected on that call for the full ten minute minimum prescribed by Rule 25-24.515(22).

19. Global respectfully requests that the Commission grant a waiver of Rule 25-24.515(22) that prohibits the termination of any outgoing local and long distance until after a minimum elapsed time of ten minutes, without any regard for the ultimate recipient of the call, and without any regard for whether such calls are allowed by the confinement facility. The waiver requested will allow for the termination of a call from a confinement facility at any time during the call that a third-party connection is attempted by the called party. This request is consistent with the policies of the confinement facilities within which Global operates pay telephone stations, and advances the policies and procedures of the confinement facilities, and the overriding public interest in controlling access of its inmate population to blocked numbers or for other potential illegal or improper purposes.

20. Section 364.337(4) provides that the Commission may grant a waiver for some or all of the requirements of Chapter 364 if determined to be in the public interest (with certain

limited exceptions not at issue in this Petition). Protecting innocent persons from contact by incarcerated persons, when protecting such persons is being advanced by blocking their telephone numbers or otherwise preventing connections to third-parties unknown to the correction facility, is clearly in the public interest.

21. Section 120.542(1) recognizes that “[s]trict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances.” It is unlikely that the Commission knew of the effect of third-party connections, or the interest of corrections officials in preventing third-party connections, when it promulgated the ten minute call minimum for inmates of confinement facilities. In addition, the implementation of Rule 25-24.515(22) in such a way as to impede the valid policy of protecting persons from inmate contact, and in such a way as to allow a call in violation of Rule 25-24.515(21), is an unreasonable result. In addition, Section 120.542(2) provides in pertinent part that:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, “substantial hardship” means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver

Global believes that a strict application of the rule, without some means of restricting inmate contact with blocked numbers or other unknown numbers through third-party connections, demonstrates substantial hardship. In addition, Global’s proposal, by not interfering with the minimum time requirement for standard two-way calls, achieves the underlying purpose of the Rule 25-24.515(22) and Chapter 364.

22. The purpose of the Rule 25-24.515(22) is to allow inmates of confinement facilities to speak with friends, family, and counsel for a meaningful period of time. By allowing Global to terminate calls that are fewer than ten minutes in duration only when third-party connections are made allows Global to honor the policies and procedures of the confinement facility regarding blocked numbers or contact to unknown third-parties, without interfering with the purpose of the rule.

23. Global requests that the waiver of Rule 25-24.515(22) so as to allow Global to terminate calls when third-party connections are made, even if the call has been ongoing for less than ten minutes, be permanent. If the policies of the confinement facilities change, or if advances in technology allow for the detection and blocking of telephone numbers when access is attempted through third-party calling, Global will notify the Commission and seek a less restrictive waiver of Rule 25-24.515(22) at that time.

24. For the reasons set forth herein, Global Tel*Link Corporation requests that the Commission waive the requirement of Rule 25-24.515(22) and allow Global to terminate calls from confinement facilities that are less than ten minutes in duration when the called party attempts to connect a third-party.

IV. Conclusion

WHEREFORE, Global respectfully requests that this Commission grant the relief requested herein so as to allow the practices and procedures of Global's confinement facility customers to be complied with, and to require completion of calls only to the extent allowed by the confinement facilities.

Respectfully submitted,



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