

State of Florida



## Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** August 6, 2009

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Service, Safety & Consumer Assistance ( Moses)  
Division of Regulatory Compliance (Curry, Kennedy)  
Office of the General Counsel (Tan)

**RE:** Docket No. 060614-TC – Compliance investigation of TCG Public Communications, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records, and determination of amount and appropriate method for refunding overcharges for collect calls made from inmate pay telephones.

**AGENDA:** 08/18/09 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Carter

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** Portions of this recommendation are based on confidential material and access to material is controlled.

**FILE NAME AND LOCATION:** S:\PSC\SSC\WP\060614.RCM.DOC

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### Case Background

In March 2004, staff received a customer complaint against TCG Public Communications, Inc. (TCG) regarding improper disconnection of inmate calls from a pay telephone within a correctional facility in Miami. According to the complaint, the inmate pay telephone system within the Miami-Dade Pretrial Detention Center was malfunctioning, which caused the inmate's calls to the complainant to disconnect before the conversation was completed. As a result, the complainant incurred additional costs because the inmate would call back to complete the conversation. Each call was assessed a surcharge that could have been

avoided if the original call had not disconnected prematurely. After receiving the complaint, technical staff began investigating the allegations of the customer's complaint. The complaint was ultimately resolved in April 2005.

TCG is a certificated pay telephone service provider (Certificate No. 7799), which provided inmate pay telephone services in Florida. When the complaint was filed, TCG operated and maintained the inmate pay telephone systems for Miami-Dade County and was a wholly owned subsidiary of AT&T Communications of the Southern States, Inc. (AT&T). TCG later became a wholly owned subsidiary of Global Tel\*Link Corporation (Global) in June 2005 and in late 2007 TCG merged into Global.

Between 2004 and 2007, staff conducted an investigation and tested the pay telephone system at the Miami-Dade Pretrial Detention Center. The pay telephone system was tested several times during the investigation. Staff ultimately determined that the three-way detection software was causing inmate calls to prematurely disconnect. As a result of the software malfunctioning, numerous customers incurred additional surcharges of \$2.25 per local call and \$1.75 per intrastate toll calls for each additional call that had to be made to complete a telephone conversation. The malfunctioning three-way call detection software was ultimately replaced in March 2008.

On September 10, 2007, staff received a proposed settlement offer from TCG to make available a settlement pool in the amount of \$175,000 from which customers who were affected by the improper disconnection of inmate calls caused by the three-way call detection software could obtain a refund. On September 8, 2008, staff filed a recommendation to address TCG's proposed settlement offer and the results of staff's investigation. Staff's recommendation proposed that the Commission not accept TCG's proposed settlement offer and that the Commission order TCG to show cause why it should not be penalized. The Agenda Conference was held on September 16, 2008. The Commission deferred the matter and directed staff and the parties to work together to negotiate a settlement.

On October 9, 2008, staff and the parties met, in the first of several meetings, to begin negotiating a settlement. On May 27, 2009, TCG filed a revised settlement offer. The company proposed to make a payment in the amount of \$1,250,000 to be deposited into the General Revenue Fund. In addition, TCG offered other commitments, filed confidentially (Document No. 05272-09), that are not specifically discussed in this recommendation. These additional commitments will require TCG to implement specific monitoring commitments, for 18 months, to ensure continuing compliance of the inmate telephone operations at the Miami-Dade Correctional Facilities.

The Commission is vested with jurisdiction of these matters pursuant to Sections 364.03, 364.3375, 364.3376, 364.345(1), 364.285, and 364.604, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the Commission accept TCG Public Communications, Inc.'s proposed settlement offer to submit a payment in the amount of \$1,250,000 for deposit into the General Revenue Fund and to implement specific monitoring commitments, for 18 months, to ensure continuing compliance of the inmate telephone operations at the Miami-Dade Correctional Facilities?

**Recommendation:** Yes, the Commission should accept TCG Public Communications, Inc.'s proposed settlement offer to submit a payment in the amount of \$1,250,000 for deposit into the General Revenue Fund and to implement specific monitoring commitments, for 18 months, to ensure continuing compliance of the inmate telephone operations at the Miami-Dade Correctional Facilities. **(Curry, Kennedy, Moses, Tan)**

**Staff Analysis:** On May 27, 2009, TCG (for itself and its present and past parents and successor in interest, Global) filed a revised settlement offer for the purpose of resolving the current issues in the present docket. Attachment A, attached, contains the unclassified portion of TCG's offer. TCG's additional commitments were filed confidentially. The confidential filing is not attached. It will be maintained in the Office of Commission Clerk. The confidential filing will be referenced in the Commission's Order as an integral part of TCG's settlement offer, if accepted by the Commission.

TCG replaced the three-way call detection software at the Miami-Dade Correctional Facilities in March 2008. TCG believes that the replacement system should entirely eliminate, on a going-forward basis, any concerns regarding the previous three-way call detection equipment that initially prompted staff's investigation. In making the offer of settlement, TCG does not concede that the design, operation, or management of the three-way call detection software resulted in the violation of any Commission rules, orders, or statutes under the former or present inmate phone systems.

Staff has reviewed TCG's proposed settlement offer, as set forth in Attachment A and TCG's confidential filing (Document No. 05272-09) containing additional commitments. Staff believes that company's proposed settlement offer is in the public's interest and recommends that the Commission accept TCG Public Communications, Inc.'s proposed settlement offer to submit a payment in the amount of \$1,250,000 for deposit into the General Revenue Fund and to implement specific monitoring commitments, for 18 months, to ensure continuing compliance of the inmate telephone operations at the Miami-Dade Correctional Facilities.

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**Issue 2**: Should this docket be closed?

**Recommendation**: If the Commission approves staff's recommendation in Issue 1, this docket should remain open pending the receipt of the \$1,250,000 payment. The payment should be received by the Commission within thirty (30) calendar days after the issuance of the Final Order. The payment should be made payable to the Florida Public Service Commission and should identify the docket number and the company's name. Upon receipt of payment, the Commission shall forward it to the Department of Financial Services to be deposited into the General Revenue Fund. If TCG fails to remit the payment within thirty (30) calendar days after the issuance of the Final Order, this docket should remain open pending further proceedings. This docket should be closed administratively upon receipt of the settlement payment. **(Tan)**

**Staff Analysis**: Staff recommends that the Commission take action as set forth in the above staff recommendation.