

January 11, 2023

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: In the Matter of the Global Tel*Link Revised Tariff No. 2 filing cancels and replaces, in its entirety, the current tariff on file with the Commission, Minnesota Tariff No. 1, issued by Global Tel*Link Corporation d/b/a ViaPath Technologies
Docket No. P5024/M-22-116

Dear Mr. Seuffert,

Attached are the comments of the Minnesota Department of Commerce (Department or Commerce) in the above matter. The Department files these comments in response to the Global Tel*Link Corporation d/b/a ViaPath Technologies (GTL) compliance filing of December 30, 2022.

The Department is available to answer any questions.

Sincerely,

/s/Lisa Gonzalez
Telecom Analyst

LG/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. P5024/M-22-116

I. PROCEDURAL BACKGROUND

On December 20, 2021, Global Tel*Link Corporation (GTL or the Company) filed a letter to inform the Minnesota Public Utilities Commission (Commission) that GTL and its affiliate, Value-Added Communications (VAC), had registered the D/B/A ViaPath Technologies (ViaPath) with the Minnesota Secretary of State.¹ Both entities provide communications services, including voice service, to incarcerated people in federal and state facilities located in Minnesota.

The Commission approved the addition of the D/B/A ViaPath Technologies to the names Global Tel*Link Corporation and Value-Added Communications, Inc., via Order dated January 28, 2022. The Order required GTL and VAC to file new tariffs that reflected only the D/B/A. The Commission also adopted the Department's recommendation that tariff changes beyond just the name change be assigned a new docket number, so that the Commission could address those changes.²

On February 17, 2022, GTL submitted two tariffs to reflect the new D/B/A and new terms, creating Dockets No. P5024/M-22-116 (GTL) and P3030/M-22-117 (VAC).

On July 26, 2022, GTL petitioned to relinquish VAC's certificate of authority and withdraw VAC's tariff, stating that VAC had no Minnesota customers. These requests were approved. Accordingly, the remaining issues arise only with respect to the GTL tariff, filed in Docket No. P5024/M-22-116.

On November 21, 2022, the Department of Commerce (Department or Commerce) filed comments recommending that changes be required in the GTL tariff, particularly with respect to refunds of unused customer payments.³

¹ Docket No. P5024, P3030/M-21-846.

² See Comments of the Department of Commerce, p. 2, adopted as part of the January 28, 2022 Order, Doc. Number 20221-182106-01.

³ Doc. Id. Nos. 202211-190809-01 (trade secret) and 202211-190809-03 (public).

On November 28, 2022, GTL filed reply comments asking that the Commission hold the proceeding in abeyance.⁴ GTL stated that recent actions of the FCC and a federal court order required it to further revise the inactivity and refund portions of its tariff. GTL did not address the recommendations made by Commerce in its comments, stating that the Department would have an opportunity to review and make any recommendations regarding its revised tariff once it had been filed with the Commission.

On November 29, 2022, the Department filed a letter stating that it did not object to the delay proposed by GTL.⁵

On December 30, 2022, GTL filed its revised and updated tariff, requesting an effective date of January 17, 2022.⁶

II. GTL'S REVISED TARIFF DOES NOT REPAIR INHERENT PROBLEMS

As discussed in Department comments filed on November 11, 2022, provisions of GTL service most concerning were the company's practice of collecting funds for prepaid telephone service and retaining those funds after the inmate for whose benefit the payments had been made was no longer incarcerated. The revised tariff does not take meaningful steps to resolve the Department's concerns.

Under the revised tariff, while incarcerated individuals with GTL prepaid accounts receive a reimbursement of unused funds upon release, friends and family who open prepaid accounts must take special steps to obtain their unused deposited funds. Due to this requirement, the company retains thousands of dollars for services that the company never provides.

Commerce provided several recommendations to resolve this unfair practice in its original comments. GTL's revised tariff, which included changes to the AdvancePay Account Terms and Conditions, improved terms relating to customer notice, but erected other barriers which allow the company to keep unused customer funds.

III. JURISDICTION AND APPLICABLE LAW

⁴ Doc. Id. No. 202211-190914-01.

⁵ Doc. Id. No. 202211-190954-01.

⁶ Doc. Id. No. 202212-191738-01.

As stated in Department comments,⁷ the Commission has authority to address the provisions in the GTL tariff as determined by prior Order,⁸ establishing that Minn. Rules Parts 7811 and 7812 most closely match the services provided to incarcerated individuals.⁹

The Commission has authority to review and determine the reasonableness of GTL's tariffed rates, terms, and conditions of telephone service in keeping with Minn. Stat. §237.07, subd. 1 (2020),¹⁰ Minn. Stat. § 216A.05, subd. 2,¹¹ and Minn. Stat. § 237.06 (2020).¹²

IV. DEPARTMENT ANALYSIS OF GTL REVISED TARIFF

As noted above, GTL informed the Commission and Commerce that the Company would file a new tariff that incorporated mandated changes resulting from revised FCC rules and a Class Action Settlement. In the interest of efficiency, Commerce agreed to wait until after GTL filed the revised tariff before further analysis and recommendations. The Company implemented some changes the Department requested, but GTL's updated terms and conditions do not fully address the Department's concerns with the AdvancePay Account option.

A. GTL REVISED ITS TARIFF TO CLARIFY AND CONFORMS TO MINNESOTA STANDARDS ON SEVERAL MATTERS AS REQUESTED

At the request of Commerce,¹³ GTL updated its to Minnesota standards and reduce confusion:

- A fee for customer paper statements has been removed

⁷ See Department Comments, III., p. 2.

⁸ ⁸ *In the Matter of the Petition of the Minnesota Department of Commerce Regarding Regulation of Inmate Telephone Service*, Order Affirming and Modifying Regulatory Treatment of Inmate Telephone Service Providers, Docket No. P999/DI-07-204, July 26, 2007, (Prison Phone Service Order) at II.A, p. 3.

⁹ Prison Phone Service Order at II.C. (2), p. 4.

¹⁰ "[E]very telephone company shall keep on file with the department a specific rate, toll or charge for every kind of noncompetitive service and a price list for every kind of service subject to emerging competition, together with all rules and classifications used by it in the conduct of telephone business."

¹¹ "The commission shall, to the extent prescribed by law ... review and ascertain the reasonableness of tariffs of rates, fares, and charges, or any part or classification thereof, and prescribe the form and manner of filing, posting, and publication thereof."

¹² "[I]t shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls, and charges are hereby declared to be unlawful. Any telephone company may include in its charges a reasonable deposit fee for facilities furnished."

¹³ See Department Comments, IV.A., p. 3.

- Irrelevant rates and information have been deleted from the tariff
- The new tariff includes clear definitions for “deposits,” “advance payments,” indicates that these features are pursuant to Commission rules, and clearly states which types of accounts are not either.

B. GTL CONTINUES TO RETAIN CUSTOMER FUNDS DEPOSITED INTO PREPAY ACCOUNTS WITHOUT RENDERING SERVICE

Commerce appreciates GTL’s willingness to clarify its tariff but notes that changes to the AdvancePay Account do not address the problematic terms and conditions identified in the November 21 Comments.

1. *GTL still requires customers to request reimbursement of unused funds, which is not fair nor reasonable.*

As noted in the Department’s comments of November 21, 2022, GTL requires customers to request refund of payments made into prepaid accounts for services that have not been provided rather than automatically returning those funds when they are no longer needed. This activity continues even though in agreeing to the Minnesota Department of Corrections’ (MNDOC) terms, the company agreed to “automatically refund the account balance to the outside customer (prepaid) without any additional processing fees” when an account has been inactive for 60 days.¹⁴ GTL’s tariff language allows the company to ignore the requirement to “automatically” return account balances; account holders must request refunds of unused deposits.¹⁵ The Company’s policy to keep funds for no service is contrary to Minnesota law.¹⁶

2. *GTL’s new reimbursement requirements are more onerous than in the previous tariff.*

Prior to the new terms and the conditions, customers could request a refund at any time, even after the account had long been considered inactive. The new tariff limits refund requests to “while an

¹⁴ See Department Comments, Sec. IV. C., pp. 6 – 7, and Attachment E.

¹⁵ *Id.*

¹⁶ See *Id.*, p. 6 and Minn. Stat. § 237.06 (2020).

account is in active status only,”¹⁷ which unnecessarily limits the amount of time a customer has available to request a refund to “180 days from the date of the last call charged to the account.”¹⁸

The revised tariff states that inactive status starts after 180 days of no activity “Unless applicable law or a Correctional Institution requires a different practice.”¹⁹ The MNDOC contract defines an inactive period as starting after 60 days. Accordingly, Minnesota customers are potentially at a greater risk of losing their deposited and unused funds as they now face a smaller reimbursement request window than under the previous scheme. The limitation of an account being in “active status” to qualify for a refund should be removed.

3. *GTL’s attempt to address customer notice problems is too weak.*

GTL stated that refunds were not automatically provided to customers because the Company did not have sufficient information to automatically return unused funds on its books and records. The Company asserted it lacked information about customer contact information and credit card information despite the Company’s policy to collect copious amounts of personal and financial data, as noted in its privacy policy. GTL’s tariff now provides that:

“If the account holder provides sufficient contact information to the Company and affirmatively agrees to receive notifications by text message and/or email from the Company, the Company will provide text message and/or email notice to the account holder 30 days prior to the scheduled expiration of the account. Upon receipt of a verified refund request during the 180-day period, any remaining balance in an account will be refunded to the Customer after deducting any call charges, applicable taxes, and transaction fees incurred during the current billing cycle.”²⁰

As noted in Department comments, the company appears to take affirmative steps to avoid the knowledge necessary to return unused customer funds.²¹ In keeping with earlier recommendations, Commerce believes the Commission should require GTL to collect and retain information sufficient to

¹⁷ See Terms of Use, Sec. 13.a. ADVANCE PAY ACCOUNTS INACTIVITY/REFUND POLICY, <https://www.viapath.com/terms-of-use/>

¹⁸ See Global Tel*Link Corporation d/b/a ViaPath Technologies, Minnesota Tariff No. 2 (Tariff), Sec. 3.6, Doc. Id. No. 202212-191738-01.

¹⁹ See Tariff, Sec. 3.6.

²⁰ Id.

²¹ See Department Comments, Sec. IV.C. p. 7.

comply with GTL's obligation to automatically refund unused funds when a prepay account has been inactive for 60 days, or other period of inactivity as specified by contract.

V. COMMISSION ALTERNATIVES

1. Require GTL to remove the provision in its tariff that an account must be in "active status" to qualify for a refund.
2. Require GTL to include a provision in its tariff that, when accepting funds for prepayment of service, the Company will collect and retain information sufficient to comply with the obligation to automatically refund unused funds when an account has been inactive for 60 days, unless a customer objects to providing such information.
3. Prospectively, when a GTL AdvancePay account, or other account with payments collected in advance of the service being used, is associated with an inmate in a Minnesota facility, retains a balance, and becomes inactive, GTL shall:
 - i. Apply a credit to any credit card used to establish the account, when the credit card account information is in GTL's books and records; or
 - ii. If a credit cannot be applied to a credit card in GTL's books and records, GTL shall make reasonable efforts to reach the account holder using customer data in GTL's books and records.
4. Approve GTL's revised tariff as written and allow GTL to continue its practice of retaining funds deposited to pay for collect calls that remain unused when an inmate is release from incarceration unless the party depositing the funds expressly requests a refund.
5. Take other action that the Commission deems appropriate.

VI. DEPARTMENT RECOMMENDATION

The Department recommends Commission alternatives 1, 2 and 3.

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Comments

Docket No. P5024/M-22-116

Dated this **11th** day of **January 2023**

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_22-116_M-22-116
Angela	Collins	acollins@cgrdc.com	Cahill Gordon & Reindel LLP	1990 K St NW Ste 950 Washington, DC 20006	Electronic Service	No	OFF_SL_22-116_M-22-116
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_22-116_M-22-116
Steve	Montanaro	Steve.monatanaro@gti.net	ViaPath Technologies	3120 Fairview Park Dr Ste 300 Falls Church, VA 22042	Paper Service	No	OFF_SL_22-116_M-22-116
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_22-116_M-22-116
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_22-116_M-22-116