

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Possible Revision or Elimination of Rules) CB Docket No. 09-102
Under the Regulatory Flexibility Act)

To: The Commission

COMMENTS OF GLOBAL TEL*LINK CORPORATION

Global Tel*Link Corporation (“GTL”), by its attorneys, hereby submits these comments in the above-captioned proceeding with respect to the Commission’s request for comments regarding the possible revision or elimination of rules in accordance with the Regulatory Flexibility Act.¹ GTL is a payphone service provider (“PSP”), an inmate phone service provider (“IPSP”), and a small entity that is impacted by several of the rules subject to the Commission review. For reasons discussed below, GTL requests that the Commission amend, *inter alia*, Sections 52.33 and 54.101 of its rules.

I. BACKGROUND

GTL is a leading provider of inmate communications services and equipment serving correctional facilities throughout the United States and has served this market for twenty years. During this time, its service has expanded from traditional public payphones to sophisticated software-based security systems. As an IPSP, GTL serves facilities of all types and sizes—from minimum security to maximum security, and from municipal and county jails housing ten or fewer inmates to state correctional systems housing tens of thousands of inmates.

¹ 5 U.S.C. § 610.

GTL has developed patented technology and services that not only provide and enhance inmate access to telephones, but just as importantly, feature a unique architecture designed to fulfill the specialized security needs of correctional facilities and law enforcement. To meet the needs of its diverse customer base, GTL's products and services offer calling options, flexible billing platforms and support services that are characteristic of a telecommunications provider, but they also offer unique features such as call monitoring, call recording, the ability to prevent impermissible three-way calls to specific parties, such as lawmakers, judges, prosecutors and witnesses in legal proceedings, among others.

In addition to providing inmate phone services, GTL is a PSP and continues to offer payphone equipment and services to the general public. In this regard, GTL serves a wide variety of communities, from airports and other transportation hubs to rural and low income residential communities.

II. DISCUSSION

a. Section 52.33, As Well As Related Rule Sections, Should Be Amended To Exempt Inmate Phone Service Providers From Long-term Number Portability Contributions.

Section 52.33 of the Commission's rules permits telecommunications carriers to recover the carrier specific costs directly related to long-term number portability. The Commission should amend Section 52.33, as well as other related sections in Part 52 of its rules including Section 52.32, in order to obviate the need of inmate phone service providers to recover its number portability contributions from their account holders, which are inmates and their families, who have no clear benefit or need for number portability in inmate phone service. Pursuant to Section 52.32 of the Commission's rules, IPSPs are among the telecommunications

carriers that are required to contribute to the shared costs of long-term number portability.²

However, from a technical standpoint, inmate phone service is so prescribed by the unique and rigorous security demands of its correctional facility function that it is wholly detached from number portability.

IPSPs such as GTL serve dual functions with respect to its specialized telephone service: (1) to complete calls for a discrete portion of the public (*i.e.*, inmates and persons communicating with inmates), and (2) to assist law enforcement officials identify and investigate any possible criminal activity. While number portability is a worthy benefit to subscribers of most telecommunications carriers, it has no utility whatsoever in inmate phone systems. Because inmates communicate essentially through a central operator and they do not possess a local number that could be subject to porting. Parties who contact inmates are not actual subscribers of IPSP's telephone service; rather, they are account holders that pay to ensure that calls with inmates are completed. Their telephone service is provided by a separate LEC or wireless or other telecommunications provider, and number portability for that party is handled solely by their provider. Lastly, the correctional facility, which is the actual subscriber to the IPSP's telephone service, is hardly a mobile entity that stands to benefit from number portability.

Currently, GTL does not recover its number portability contributions from its account holders in order to keep its inmate calling rates as low as possible. The cost to provide this highly specialized service is substantial, for it includes not only expensive technology, fast-paced research and development, ever-evolving complex platform designs, constant upgrades, and service, maintenance and repair, but also the commissions from GTL's service that are retained by correctional facilities to cover their own costs in providing inmate phone service and the

² 47 C.F.R. § 52.32.

significant burden of uncollectible debt from many of its account holders. Yet, the current climate surrounding the debate over inmate calling rates remains heated.³ Despite its entitlement to recovery, it is GTL's desire to refrain from passing on to its account holders the cost of a benefit that is needless relative to its own service.

Additionally, the contributions of IPSPs to number portability are *de minimis* relative to the entire number portability contribution pool. However, such contributions are a financial burden on IPSPs such as GTL and potentially on the inmates and inmates' families that GTL serves. Considering the small number of IPSPs and the discrete portion of the public served by IPSPs, exempting IPSPs from the number portability contribution pool would not harm or threaten the viability of number portability.

Lastly, to the extent that Section 52.33 and other related sections of the Commission's rules are amended to exempt PSPs from LNP contributions, Form 499-A also should be modified so that IPSPs may distinguish their service from other telecommunications providers. Currently, the form provides no line or box to distinguish IPSPs from other telecommunications providers whose subscribers benefit from number portability.

b. Section 54.101 Should Be Amended To Allow Payphone Service Providers to Receive Universal Service Fund Support.

Section 54.101 of the Commission's rules specifies the services for rural, insular and high-cost areas that are supported by federal universal support mechanisms ("Universal Service Fund" or "USF"). The Commission should amend Section 54.101 of its rules whereby providers of payphone service shall be eligible to receive USF support. One reason that payphone service is not included on this list is because of the Commission's decision to deregulate PSPs, which

³ The debate over the rates of inmate phone service is ongoing at the Commission in CC Docket No. 96-128, on Capitol Hill in the proposed Family Telephone Connection Protection Act of 2009 (H.R. 1133), and online in the general blogosphere.

was intended to spur competition and drive payphone service profitability.⁴ Unfortunately, this desired result has not come to pass. Despite the efforts of states to preserve a minimal amount of payphone service for public health, safety, and welfare purposes through public interest payphone programs, PSPs continue to bear the high costs of uncollectible dial-around compensation (i.e., unpaid collect calls) as well as the increasingly high service, maintenance and repair costs. Simultaneously, PSPs are expressly required by Section 54.706(a) of the Commission's rules to contribute to USF without a dime of federal support. State public interest payphone programs are simply no substitute for commercial payphone deployment in areas where deployment is needed.

Payphone service is the very definition of universal service. With respect to its users, the service comes at a low cost, requires no special equipment or activation, and is available 24 hours a day. Payphone service is also free for emergency 9-1-1 calls and for toll-free calls. Despite the growing number of Americans who own cellular phones or other wireless handset devices, the availability of payphones remains a certain and critical fact of life. Wireless devices will always be lost, forgotten or stolen; batteries powering these devices will inevitably discharge; and wireless coverage is never 100 percent reliable. States of emergency, for instance, have proven capable of overwhelming wireless networks, including the September 11, 2001 terrorist attacks. That day, Verizon made calling free from thousands of payphones throughout Manhattan to allow people in New York to connect with family and loved ones.⁵

⁴ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Report and Order, FCC 96-388, ¶ 3 (rel. September 20, 1996).

⁵ "Don't hang up yet: Pay phones are still a fixture in U.S. culture," Candy Cheng, Columbia News Service (April 28, 2009), available at <http://jscms.jrn.columbia.edu/cns/2009-04-28/cheng-payphones>.

Furthermore, payphone service should be specifically included under Section 54.101 of the Commission's rules because it is an extension of the low income Lifeline support for those without residential telephones in low income, rural and Tribal Land communities. Today many Americans continue to rely on nearby payphone service as their sole source of telephonic communication. According to the American Public Communications Council, Inc. ("APCC"), approximately 14 million Americans do not have residential phone service and approximately 140 million do not own mobile phones.⁶ Federal USF support would allow PSPs such as GTL to meet the growing maintenance costs without having to abandon those communities that continue to rely on payphone service.

The argument has previously been advanced before the Commission that PSPs should be exempted from the list of entities that are required to contribute to USF because, *inter alia*, payphones are a unique and accessible form of universal service relied on by many Americans across the country, and because PSPs simply do not conform to the universal service payment model as they are unable to recover USF assessments directly from end users.⁷ It has been further argued that most PSPs should be exempt from USF assessments because their contributions are *de minimis* under a direct contribution model, yet the amounts that they must actually pay via local exchange carrier ("LEC") and interexchange carrier ("IXC") pass-through charges is a burden on PSPs.⁸ While GTL continues to support such relief, GTL urges the Commission to recognize the need for federal USF support for payphone service as both an

⁶ See "FAQs About the Payphone Industry," available at <http://www.apcc.net/i4a/pages/index.cfm?pageid=40>.

⁷ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Comments of American Public Communications Council, Inc. at 11 (February 28, 2003).

⁸ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ex Parte Communication of American Public Communications Council, Inc. at 1 (January 9, 2006).

extension of Lifeline support for rural, low income and/or Tribal Land communities as well as true universal service for all Americans. Accordingly, the Commission should amend Section 54.101 of its rules to include USF support for providers of payphone service.

III. CONCLUSION

GTL is a small entity and provider of payphone and inmate phone services, both of which serve the public interest. However, it is financially burdened by the increasingly high costs of maintaining its public phone service without federal USF support and of maintaining its specialized inmate phone service while absorbing the cost of number portability. For the foregoing reasons, the Commission should amend Section 52.33 (and any other sections in Part 52) of its rules to allow PSPs to receive federal USF support, and it should amend Section 54.101 of its rules to exempt IPSPs from number portability contributions.

Respectfully submitted,

GLOBAL TEL*LINK CORPORATION

By: */s/ Kenneth C. Johnson*

Kenneth C. Johnson
Robert A. Silverman
Bennet & Bennet, PLLC
4350 East West Highway, Suite 201
Bethesda, Maryland 20814
Phone: (202) 371-1500
Fax: (202) 371-1558

Dated: September 8, 2009