

Decision 08-11-034 November 6, 2008

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Global  
Tel\*Link Corporation (U5680C), GTEL  
Holdings, Inc. and GTEL Acquisition  
Corp. for Approval of Merger and  
Transfer of Control.

Application 08-09-009  
(Filed September 12, 2008)

**DECISION GRANTING APPROVAL  
OF PROPOSED MERGER AND TRANSFER OF CONTROL****1. Summary**

This decision grants the application of Global Tel\*Link Corporation (Global), GTEL Holdings, Inc. and GTEL Acquisition Corp (collectively, Applicants) for Approval of Merger and Transfer of Control. In 1996, Global was issued a Certificate of Public Convenience and Necessity to operate as a reseller of InterLATA and IntraLATA Telecommunications Services within California (Decision 96-09-078). Applicants state that the proposed transfer of control will strengthen Global as a competitor by providing access to financial resources necessary for Global to expand its customer base and develop new products and services to meet the evolving communications needs of authorities in California that operate correctional institutions and other confinement facilities. According to Applicants, the transfer of control will be made in a transparent fashion that will not affect the provision of telecommunications services. The rates, terms, and conditions currently available to Global's customers will not change as a result of the transaction. This matter is uncontested. This proceeding is closed.

## **2. The Applicants**

### **2.1. Global Tel\*Link Corporation**

Global is a privately-held Delaware corporation whose principal offices are located at 2609 Cameron Street, Mobile, Alabama 36607. Global is a wholly-owned subsidiary of GTEL Holdings. Global is engaged in the business of providing managed telecommunications services to inmates of state and county departments of corrections and in owning and operating prison payphones and public payphones. These services enable inmates to communicate with friends, family members, legal counsel and other approved parties outside the correctional facilities. Global provides these services throughout most of the continental United States, including California.

### **2.2. GTEL Holdings, Inc.**

GTEL Holdings, Inc. is a privately held Delaware corporation whose principal offices are located at 2609 Cameron Street, Mobile, Alabama 36607. GTEL Holdings is a holding company, whose only business activities are conducted through Global.

### **2.3. GTEL Acquisition Corp.**

GTEL Acquisition Corp. is a privately held Delaware corporation whose principal offices are located at 590 Madison Avenue, 41st Floor, New York, New York 10022. GTEL Acquisition Corp. is not currently providing telecommunications in any state. GTEL Acquisition Corp. is wholly owned by GTEL Holding LLC, a Delaware limited liability company. GTEL Holding LLC is controlled by a board of managers including the CEO of Global and managers appointed by The Veritas Capital Fund III, L.P. and GS Direct, L.L.C. The ownership of GTEL Acquisition Corp. is outlined on Exhibit 4, Post Closing Holding Structure.

#### **2.4. GTEL Merger Corp.**

GTEL Merger Corp. is a privately held Delaware corporation and a wholly-owned subsidiary of GTEL Acquisition Corp. GTEL Merger Corp. was organized solely for the purpose of entering into the merger agreement with GTEL Holdings and completing the merger, and has not conducted any business operations.

### **3. Description of the Transaction**

GTEL Acquisition Corp., GTEL Merger Corp., and GTEL Holdings, entered into an Agreement and Plan of Merger dated September 11, 2008, under which GTEL Merger Corp. will be merged with GTEL Holdings, whereupon the separate existence of GTEL Merger Corp. will cease, and GTEL Holdings will be the surviving corporation. Upon consummation of the merger, GTEL Acquisition Corp. will own 100% of the issued and outstanding capital stock of GTEL Holdings, which will remain as the 100% shareholder of Global. A copy of the Agreement and Plan of Merger is attached to the application as Exhibit 3. Organizational charts, showing the current ownership structure of Global, and the ownership structure after the transfer is completed, are attached to the application as Exhibit 4.

### **4. Financial Requirements**

An entity that does not hold a certificate of public convenience and necessity (CPCN), must meet the financial and fitness requirements in order to acquire an entity that does hold a CPCN.

Applicants furnished under seal the most recent financial statement for GTEL Holdings which shows that GTEL Holdings meets the Commission's financial standards applicable to parties seeking control of facilities-based carriers.

## **5. Public Interest Considerations**

Applicants state that the proposed transaction involves only a change in corporate structure of a reseller of telecommunications services. According to Applicants, approval of this application will enhance Global's ability to compete in the market for telecommunications services in California. The proposed transfer of control will strengthen Global as a competitor by providing access to financial resources necessary for Global to expand its customer base and develop new products and services to meet the evolving communications needs of authorities in California that operate correctional institutions and other confinement facilities.

Further, Applicants state that the transaction will have no adverse effect upon customers. The transaction will not result in any changes to Global's service to its current customers. Global's corporate officers and management team responsible for its day-to-day operations are expected to remain essentially the same immediately following the merger. The proposed transaction will not have an adverse effect on non-management employees of Global, and no staff reductions are presently contemplated. In addition, the contact points for customers and Commission inquiries will remain the same after the transfer of control. Nor does the proposed transfer of control raise any competitive concerns. GTEL Acquisition Corp. holds no investments in the type of telecommunications authorizations held by or services offered by Global, and thus the proposed transaction will not result in any consolidation in the market for telecommunications services to the corrections industry in California. According to Applicants, the only impact of the proposed transaction is financial in that Global will obtain access to increased resources necessary to become an even more effective competitor.

## **6. Discussion**

Applicants seek approval of the proposed transfer of control pursuant to Pub. Util. Code § 854(a), which, in relevant part, states:

No person or corporation . . . shall merge, acquire, or control . . . any public utility organized and doing business in this state without first securing authorization to do so from the commission . . . . Any merger, acquisition, or control, without that prior authorization shall be void and of no effect.

The Commission has broad discretion to determine if it is in the public interest to authorize a transaction pursuant to § 854(a).<sup>1</sup> The primary standard used by the Commission to determine if a transaction should be authorized under § 854(a) is whether the transaction will adversely affect the public interest.<sup>2</sup>

For the following reasons, we conclude that it is reasonable to grant this § 854(a) application. First, Global will continue to operate as it has done in the past, using the same names and operating authorities. Second, the public may benefit from the transfer of control to the extent the transaction enhances the ability of Global to raise capital, maintain and expand services and operations. Third, there is no opposition to this application. For these reasons, we see no reason to withhold authority for the transfer of control before us here.

## **7. Motion for Protective Order**

Pursuant to Pub. Util. Code § 583 and General Order 66-C, Applicants request that the financial information Exhibits 1 and 2, and Agreement and Plan of Merger Exhibit 3, submitted in the application be kept under seal. Applicants

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<sup>1</sup> D.95-10-045, 1995 Cal. PUC LEXIS 901, \*18-19.

<sup>2</sup> D.00-06-079, p. 13.

represent that the information is proprietary and sensitive, and the information, if revealed, would place Applicants at an unfair business disadvantage. We have granted similar requests in the past and will do so here.

All sealed information should remain sealed for a period of two years after the effective date of this order. If Applicants believe that further protection of the sealed information is needed beyond the two years, Applicants shall comply with the procedure set forth in Order Paragraph 3.

#### **8. Categorization and Need for Hearings**

In Resolution ALJ 176-3221, dated September 18, 2008, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were not necessary. There is no opposition to the application. Given this status, public hearing is not necessary and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3221.

#### **9. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

#### **10. Assignment of Proceeding**

Timothy Alan Simon is the assigned Commissioner and Bertram D. Patrick is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. Global is authorized by D.96-09-078 to operate as a reseller of InterLATA and IntraLATA telecommunications services in California.

2. Applicants seek authorization of the transfer of control of Global whereby GTEL Acquisition Corp. will own 100% of the issued and outstanding capital stock of GTEL Holdings, which will remain as the 100% Shareholder of Global.

3. Pub. Util. Code § 854(a) requires Commission authorization to transfer control of a public utility. Any transfer of control without Commission authorization is void under the statute.

4. Global will continue offering current services and use the same name and authority after the transfer of control.

5. Global is current on reporting and transmitting the user fees applicable to its California operations.

6. Upon completion of the transaction, Global will not change its name or its rates, terms or conditions of service as a result of the change in ultimate control.

7. Applicants contend that the transaction will be transparent to California consumers.

8. There is no opposition to this application.

### **Conclusions of Law**

1. This is a ratesetting proceeding and no hearing is necessary.

2. This application should be approved and become effective immediately because it is not adverse to the public interest.

3. Approval of this application is not a finding of value of the rights and property being transferred.

### **O R D E R**

**IT IS ORDERED** that:

1. Global Tel\*Link Corporation (Global), GTEL Holdings, Inc. and GTEL Acquisition Corp. (jointly Applicants) are authorized, pursuant to

Pub. Util. Code §§ 851-854, to implement the transfer of control as described in the application.

2. The request of Applicants to have the financial information Exhibits 1 and 2, and the Agreement and Plan of Merger Exhibit 3, filed with this application kept under seal is granted for two years from the effective date of this decision. During that period, the information shall not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge.

3. If Applicants believe that further protection of the information kept under seal is needed, they may file a motion stating the justification for further withholding of the information from public inspection, or for such other relief as the Commission's rules may then provide. This motion shall be filed no later than one month before the expiration date.

4. Global shall notify the Director of the Commission's Telecommunications Division in writing of the transfer of control, as authorized herein, within 30 days of completion of the transaction.



5. Application 08-09-009 is closed.

This order is effective today.

Dated November 6, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners