



MGA/CF1/mef 9/13/2021

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

Order Instituting Rulemaking to  
Consider Regulating  
Telecommunications Services Used by  
Incarcerated People.

Rulemaking 20-10-002

**ADMINISTRATIVE LAW JUDGE AND  
ASSIGNED COMMISSIONER'S RULING  
COMPELLING PRODUCTION OF DOCUMENTS**

On August 13, 2021, the Public Advocates Office submitted a *Motion of the Public Advocates Office for an Order Compelling Data Request Responses from Global Tel\*Link* (Motion to Compel) requesting that the California Public Utilities Commission (Commission) order Global Tel\*Link to provide information in response to the Public Advocates' Data Requests in Rulemaking (R.) 20-10-002. On August 23, 2021, Global Tel\*Link filed a *Response in Opposition of Global Tel\*Link to Motion of the Public Advocates Office for an Order Compelling Data Request Responses*. On September 2, 2021, the Public Advocates Office filed a *Reply to Global Tel\*Link's Response to Motion for an Order Compelling Data Request Responses*.

Having considered the Public Advocates' Motion to Compel, Global Tel\*Link's response, and the Public Advocates' reply, we hereby grant the Public Advocates' Motion to Compel.

Because the Public Advocates Office is an arm of the Commission, its staff—like all other Commission staff— “may, at any time, inspect the accounts,

books, papers, and documents of any public utility.”<sup>1</sup> In addition, the Public Advocates Office has the specific statutory authority to “compel the production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission . . . .”<sup>2</sup> Further, because the Public Advocates are a party to this proceeding they, like any party, “may obtain discovery from any other party regarding any matter, not privileged, that is relevant to the subject matter involved in the pending proceeding, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence, unless the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence.”<sup>3</sup> Our discovery rule mirrors California’s,<sup>4</sup> which is “applied liberally in favor of discovery . . . .”<sup>5</sup>

The Public Advocates have propounded discovery into Global Tel\*Link’s video calling services. Global Tel\*Link resists discovery because, it asserts, video calling services are outside the Commission’s jurisdiction, and that this lack of jurisdiction also limits the Public Advocates’ discovery rights.<sup>6</sup> There are two problems with this argument.

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<sup>1</sup> Pub. Util. Code, § 314, subd. (a).

<sup>2</sup> Pub. Util. Code, § 309.5, subd. (e).

<sup>3</sup> Rule 10.1 of the Commission’s Rules of Practice and Procedure. The Commission, in turn, has express statutory authority to adopt those rules. Pub. Util. Code, § 1701, subd. (a); *see also* Pub. Util. Code, § 701.

<sup>4</sup> Code Civ. Proc., § 2017, subd. (a).

<sup>5</sup> *Gonzalez v. Superior Court* (1995) 33 Cal.App.4th 1539, 1546.

<sup>6</sup> Response in Opposition of Global Tel\*Link Corporation (U5680C) to Motion of the Public Advocates Office for an Order Compelling Data Request Responses (Aug. 23, 2021), at 14 (“Global Tel\*Link Response”).

First, as Global Tel\*Link recognizes, the Commission has yet to determine whether it may exercise jurisdiction over video calling services; that is an issue in this proceeding.<sup>7</sup> In the meantime, like any other tribunal, the Commission has jurisdiction to determine its own jurisdiction, and to develop the facts necessary to make that determination.<sup>8</sup> Global Tel\*Link asserts that the jurisdictional question here is purely a question of law.<sup>9</sup> At this preliminary stage, we are unable to agree. Because this is, as Global Tel\*Link recognizes, a novel issue for the Commission, the information sought by Public Advocates may help us answer the jurisdictional question.

Second, even assuming for the sake of argument that the Commission lacks jurisdiction over video calling, that this question may be decided without factual development, *and* that Public Advocates' statutory rights to compel production stop at the end of the Commission's jurisdiction (a question we do not answer here), that would not defeat discovery. As explained above, as a party to this proceeding, the Public Advocates have an independent right to discovery under our Rules of Practice and Procedure. Thus, we fall back on the traditional analysis: whether the material sought is itself admissible or is reasonably calculated to lead to the discovery of admissible evidence; and, if the answer to that question is "yes," whether the party resisting discovery has shown that the burden of production clearly outweighs its likely value.

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<sup>7</sup> D.21-08-037, at 103.

<sup>8</sup> See, e.g., *Barry v. State Bar of California* (2017) 2 Cal.5th 318, 326; 2 Witkin, Cal. Procedure (5<sup>th</sup> ed. 2008) Jurisdiction, § 339, at 963 ("[A] tribunal has the duty, and therefore the authority or power (jurisdiction), to decide in the first instance whether it has jurisdiction of the subject matter and the parties, and whether it also has jurisdiction to act in a particular manner. *This process may involve the determination of jurisdictional facts, or of jurisdictional questions of law.*" (emphasis added)).

<sup>9</sup> Global Tel\*Link Response, at 14.

Even if the material sought is not itself admissible, Global Tel\*Link has not shown—indeed, does not assert—that the material sought could not lead to the discovery of admissible evidence. Information about Global Tel\*Link’s video calling services might, for example, lead to admissible evidence about Global Tel\*Link’s overall business plan or cost structure, which are relevant to the subject matter of this proceeding and within the Commission’s jurisdiction.

Finally, Global Tel\*Link asserts that the requested discovery poses “an undue burden, expense, and intrusion . . .”<sup>10</sup> but that argument derives entirely from its jurisdictional arguments. Global Tel\*Link does not raise any independent argument why the burden of production clearly outweighs its likely value.

In sum, Global Tel\*Link has not shown that Public Advocates lacks the authority to propound discovery here; nor has it overcome the presumption in favor of allowing liberal discovery. The Motion is granted.

**IT IS RULED that:**

1. Global Tel\*Link (GTL) shall provide complete and full responses to the following outstanding data requests propounded by the Public Advocates Office no later than 10 days from issuance of this ruling:

- (a) Data Request 02 Propounded to GTL on February 17, 2021, Responses Due March 3, 2021, Questions 18 and 22;
- (b) Data Request 05 Propounded to GTL on May 25, 2021, Responses Due June 8, 2021, Questions 1 and 2; and,

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<sup>10</sup> Global Tel\*Link Response, at 14.

(c) Data Request 06 Propounded to GTL on May 25, 2021, Responses Due June 8, 2021, Questions 2, 5, 6, 7, 9, 12, and 13.

Dated September 13, 2021, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves  
Assigned Commissioner

/s/ CATHLEEN A. FOGEL

Cathleen A. Fogel  
Administrative Law Judge