

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Tyrone Gibbs v. Global Tel Link Corporation

Public Meeting June 11, 2015
2358084-OSA
Docket No. C-2013-2358084

MOTION OF CHAIRMAN GLADYS M. BROWN

Before us today is consideration of the Exceptions and Reply Exceptions to Administrative Law Judge (ALJ) Kandace F. Melillo's Initial Decision (I.D.) issued on November 18, 2014 in the above captioned proceeding. In the I.D., the ALJ recommended that the Formal Complaint of Tyrone Gibbs be sustained in part. In addition, the ALJ recommended a civil penalty in the amount of \$300.00 because Global Tel Link Corporation failed to provide reasonably continuous service to the Complainant.

On April 1, 2013, Tyrone Gibbs filed a formal complaint against Global Tel Link Corporation (GTL) who provided telephone service to the inmates at the relevant correctional institution during the time period in question. Mr. Gibbs in his complaint alleged that GTL provided unreasonable and inadequate wireline service. As one example, the Complainant alleged that wireline calls to wireless recipients on a preapproved personal contacts list from the correctional facility where he was incarcerated were being terminated prematurely, requiring him to reinitiate the call and incur another charge. As relief, Mr. Gibbs requested, among other things, refunds for the dropped calls.

The Initial Decision (I.D.) denies the request for refunds because all the calls on the inmate's discrepancy forms submitted of record were to cell phones, and there were refunds given as to dropped calls made at the time because of possible system problems. In his exceptions, the Complainant alleges that he should be able to receive refunds for dropped wireline calls to cell phones

There is an extensive body of Commission decisions addressing complaints involving the provision of inmate calling service. One of those cases is *Feigley v. Verizon Select Services, Inc.*, Docket No. C-20043621 (Order entered April 24, 2006), in which the Commission determined that a complainant alleging that the telecommunications carrier wrongly terminated a telephone call between an inmate and an outside party must present evidence regarding three elements in order to establish a *prima facie* case. First, a complainant must present evidence that the inmate connected a call between the prison and a pre-approved number. Second, a complainant must present evidence that the call was disconnected for no reason that was caused by the inmate's use of the telephone. Third, a complainant must show that the recipient of the telephone call had no custom calling features, such as three-way calling or call waiting and that the recipient's telephone is not a portable or cellular one.

I acknowledge there are many valid reasons why inmate wireline calls, including those to both wireline and cell phones, are terminated. I also acknowledge that in accordance with *Feigley*, the Commission historically has not ordered refunds for dropped wireline calls to cell

phones. Based on the unique facts and circumstances in this case, however, I believe that refunds are appropriate for the Complainant's wireline calls to cellular telephones that were terminated prematurely. The unique facts and circumstances in this case include substantial, credible record evidence that: (1) the dropped calls were made to cellular telephones of preapproved personal contacts; (2) GTL affirmatively diagnosed systemic problems affecting inmate calls terminating at both wireline and cellular telephones and remediated those constraints; and (3) GTL had the discretion to depart from the Department of Corrections policy against refunds for dropped calls to cellular telephones, in this case, giving Complainant calling credits.

Complainant demonstrated that GTL dropped six wireline calls from the correctional facility where he is incarcerated to cell phones under a now-expired service contract.¹ Therefore, I believe that the Complainant made a *prima facie* case that those six wireline calls to cell phones were dropped and should be subject to refund. GTL showed that Complainant's charge for a dropped wireline call was \$1.60, which would mean a \$9.60 refund or credit for the six dropped calls. I note, however, that GTL has already refunded \$3.20 to the Complainant for two of the six dropped calls. Consequently, the proper refund amount is \$6.40 for the four dropped calls that were not previously subject to a refund or credit.

Finally, I agree with staff's recommendations on the remaining issues in the exceptions.

THEREFORE, I MOVE THAT:

1. GTL provide Complainant a credit or refund of \$6.40 for four of the six dropped calls that were not previously subject to a refund or credit;
2. The case be marked closed once the refund or credit is properly remitted to the Complainant and the civil penalty is paid; and
3. OSA prepare an Opinion and Order consistent with this Motion.

June 11, 2015

Date


Gladys M. Brown, Chairman

¹ The latest vendor providing this service since GTL has dramatically reduced the intrastate per rate call, a fact this Commission stressed to the FCC in its recent consideration of whether to preempt intrastate calling rates. See *In re: Interstate Inmate Calling Rates*, Docket No. 12-375, Comments of the Pa. PUC (February 27, 2015).