



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

ISSUED: MARCH 14, 2005

C-20039232

SHERMAN COLEMAN AJ-2324
SCI PITTSBURGH
PO BOX 99901
PITTSBURGH PA 15233

DOCUMENT
FOLDER

Sherman Coleman, AJ-2324

V.

T-Netix, Inc., and T-Netix Telecommunications, Inc.

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Louis G. Cocheres. This decision is being issued and mailed to all parties on the above specified date.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions MUST BE FILED WITH THE SECRETARY OF THE COMMISSION 2ND FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265, within twenty (20) days of the issuance date of this letter. The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa. Code §1.11(a)) or on the date deposited with an overnight express package delivery service (52 Pa. Code 1.11(a)(2), (b)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions/reply exceptions. A certificate of service shall be attached to the filed exceptions.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within ten (10) days of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within twenty (20) days, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs.

Very truly yours,

James J. McNulty
Secretary

Encls.
Certified Mail
Receipt Requested
FG

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FEB 25 2004

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CITY: STATE: ZIP:
REPRESENTING: TYPE

ENTRY NO.:
NAME:
ADDRESS1:
ADDRESS2:
CITY: STATE: ZIP:
REPRESENTING: TYPE

RESPONDENT OR APPLICANT: T-NETIX, INC.
PARTY OR COMPLAINANT: COLEMAN, SHERMAN
[CU25] [] [C-20039232] [] [] [] [] [] PRINT- []

THIS IS THE LAST RECORD OF THIS CASE NUMBER

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sherman Coleman, AJ-2324

v.

T-Netix, Inc. and

T-Netix Telecommunications, Inc.

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:
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C-20039232

**DOCUMENT
FOLDER**

INITIAL DECISION

Before
Louis G. Cocheres
Administrative Law Judge

DOCKETED
MAR 15 2005

HISTORY OF THE PROCEEDING

This case is one of a series of cases involving the efforts of T-Netix, Inc., and T-Netix Telecommunications, Inc., to provide telephone service to prison inmates throughout Pennsylvania. Mr. Coleman (Complainant or Customer) filed this Complaint on January 13, 2003. He alleged that T-Netix was overcharging him for every prepaid call by advertising one rate and charging a higher one when the call was placed. As a remedy, he wanted T-Netix to refund the overcharges he had incurred. A copy of the advertised rates was included with the Complaint. At the time the Complaint was filed, Mr. Coleman was an inmate at the State Correctional Institute (SCI) at Somerset. By letter, dated January 17, 2003, the Commission's Secretary sent the Complaint and Formal Complaint Notice To Respondent To Answer Or Satisfy to T-Netix.

On February 12, 2003, Mr. Coleman filed an Amended Complaint. He alleged that 1) T-Netix was continuing to charge him more than its advertised rates for prepaid telephone service, 2) the overcharges had increased, 3) the prepaid service was unreasonably high, 4) T-Netix was required to charge its tariffed rates and 5) T-Netix overcharges were fraudulent.

As a remedy, he wanted 1) T-Netix to comply with the Public Utility Code, 2) T-Netix to charge its tariffed rates as set forth in its advertising, 3) T-Netix to provide notice of any increases in rates prior to the rate increase implementation, 4) T-Netix to refund all overcharges, 5) T-Netix to be required to charge only its advertised rates. Included with the Amended Complaint were a memo to Ms. Miller (SCI-Somerset T-Netix Site Administrator) complaining about the disparity between advertised rates and actual rates and a copy of a sheet of the advertised rates. By letter, dated February 20, 2003, the Commission's Secretary served a copy of the Amended Complaint on T-Netix.

By letter, dated April 9, 2003, T-Netix, Inc., and T-Netix Telecommunications, Inc., (T-Netix or Company) filed an Answer To The Complaint Of Sherman Coleman (Answer). The Answer alleged that 1) T-Netix provided only inmate telephone service to correctional institutions throughout the United States, 2) T-Netix was a certificated interexchange carrier (IXC) in Pennsylvania, 3) T-Netix contracted with Verizon to provide inmate telephone service to SCI-Somerset, including a "Prepaid Institutional Calling Service," which allowed an inmate to make direct dialed calls using a debit account, 4) T-Netix charged according to its tariffed rates, 5) T-Netix had not overcharged Mr. Coleman for prepaid calls, 6) T-Netix rates were within the range permitted by its tariff, 7) Mr. Coleman received the proper notice of the rates, 8) Mr. Coleman received oral notice of the rates at the start of each telephone call which complied with federal regulations and 9) the advertisements were confusing and T-Netix requested the removal of the same.

On July 28, 2003, I sent a Prehearing Order to the parties to help them prepare for the hearing by telephone on August 20, 2003. I also sent an Order admitting the attorneys for T-Netix Pro Hac Vice.

A hearing was held on August 20, 2003, by telephone. Mr. Coleman appeared pro se and testified on his own behalf and produced one exhibit which was admitted. T-Netix appeared by counsel who presented no witnesses and one exhibit which was admitted. The transcript consists of 33 pages. No party filed a brief. The record was closed on September 10, 2003.

FINDINGS OF FACT

1. At the time of hearing, Mr. Coleman, AJ-2324, was an inmate at SCI Pittsburgh, P.O. Box 99901, Pittsburgh, PA. 15233. Tr. 5.
2. While Mr. Coleman was incarcerated at SCI Somerset he purchased prepaid phone minutes at the prison commissary. Tr. 5-6.
3. After making the purchase, he would use his institutional Personal Identification Number to access the automated telephone system. The system would then give him the choice of making a collect call or a prepaid call. He selected prepaid call. A recording would inform him that the charge to call Pittsburgh was \$2.47 for the first minute and 22¢ for each additional minute. He had the opportunity to terminate the call at this point or to continue. Tr. 6-7.
4. Coleman Exhibit A was a copy of the price list for prepaid calls which was used to advertise the service. Coleman Exh. A. Tr. 7-8.
5. Mr. Coleman objected to the price in the recorded message (which was charged to his account) because it was higher than the price listed on Exh. A. He read the price list to promise that the "Extended Local Area" calls would cost \$1.45 for the connection fee plus 8¢ per minute for off-peak calls. As a result, Mr. Coleman expected to be charged \$2.72 for a fifteen minute call and not \$5.72 which was rate debited to his account. Tr. 5, 7-9. Exh. A.
6. Mr. Coleman agreed that the rate which was actually charged to him was the "In Pennsylvania (long distance)" rate which was \$2.25 for the connection fee and 22¢ for each minute. Tr.8-10. Exh. A.
7. Mr. Coleman believed that the Extended Local Area rate should apply because the price list specifically showed that there was a Mileage Band for the Extended Local Area rate which applied to calls from 17-354 miles from the prison. Mr. Coleman's calls went

from Somerset to Pittsburgh which was an approximate distance of 70 miles. According to the price list, he calculated that the price should be \$1.45 for the connection fee plus an off-peak 8¢ per minute charge. Tr. 5, 10, 15-16.

8. Mr. Coleman also objected to the fact that the price went up to \$2.49 for the first minute and 24¢ for each minute thereafter without notice or warning for the same prepaid calls. Tr. 11.

9. At the time of hearing, Mr. Coleman was using a prepaid account to make his telephone calls. Tr. 11-12.

10. By letter dated June 26, 2003, T-Netix attempted to inform Mr. Coleman that his account was credited in the amount of \$3.28 on April 29, 2003. Unfortunately, Mr. Coleman's copy of the letter was sent to SCI Somerset after Mr. Coleman was moved to SCI Pittsburgh and did not arrive in Pittsburgh at all. He did receive on August 15, 2003, a copy of the June 26 letter as an attachment to a letter, dated August 12, 2003, from counsel for T-Netix to the undersigned. Tr. 12-14, 18-19.

11. Mr. Coleman kept a close watch on his account and denied receiving the credit. Tr. 14.

12. By letter dated July 11, 2003, Mr. Coleman notified the presiding officer that he had been transferred from SCI Somerset to SCI Pittsburgh. It is unclear whether a copy of the letter was sent to counsel for T-Netix. Tr. 17-18.

13. Official notice of T-Netix Telecommunications Services, Inc., Telephone Pa.P.U.C. No. 2 tariff was taken on the record. Tr. 25-26.

14. The Affidavit of Robert Comstock, Vice President of T-Netix, Inc., was admitted into evidence without objection. The affidavit included a letter, dated June 26, 2003,

which was addressed to Mr. Coleman. Counsel for T-Netix agreed that both documents were hearsay which lacked corroboration on the record and could not be used as evidence. Tr. 24, 26, 28.

15. Mr. Coleman was transferred from SCI Somerset to SCI Pittsburgh on June 3, 2003. Tr. 12.

16. The T-Netix tariff specified that the rates and charges for prepaid calls were provided at a ten percent discount off the standard collect rates and charges. T-Netix Telecommunications Services, Inc. Supplement No. 2, Telephone-Pa.P.U.C. No. 2, Second Revised Sheet 29.

17. The T-Netix price list at issue in this case stated, in part, as follows:

COST OF THE CALL

...

Prepaid Rates. *

...

Extended Local Area \$1.45 + per minute charges ** + applicable taxes
**

Usage Mileage Band:	Peak		Off-Peak	
	First Min	Addl Min	First Min	Addl Min
1-16	\$ 0.130	\$ 0.130	\$ 0.065	\$ 0.065
17-354	\$ 0.160	\$ 0.160	\$ 0.080	\$ 0.080

In Pennsylvania (long distance) \$2.25 + \$0.22/minute + applicable taxes

Coleman Exh. A.

DISCUSSION

This case is one of a series of cases brought by the inmates incarcerated at the State Correctional Institutions throughout Pennsylvania against the collect call and prepaid rates and business practices of T-Netix, Inc. and T-Netix Telecommunications, Inc. A couple of the cases will contain almost identical issues to those discussed below. Any differences in the outcomes will be dependent on the differences in the evidentiary record created by the parties. Having reviewed the pleadings, testimony, exhibit, tariff and the Public Utility Code (66 Pa. C.S. §§101 et seq.) and arguments made by counsel for T-Netix, I find in favor of Mr. Coleman.

Before trying to analyze what the Company's prepaid price list said, I tried to determine what the tariffed rate was for prepaid calls. The tariff said that the rates and charges for prepaid calls were provided at a ten percent discount off the standard collect rates and charges. T-Netix Telecommunications Services, Inc. Supplement No. 2, Telephone-Pa.P.U.C. No. 2, Second Revised Sheet 29. The language of the tariff for collect call rates was not helpful. The tariff listed "Automated Collect-Only IntraLATA Long Distance Service." The per minute charge was the range of a minimum of \$0.10 to a maximum of the Highest Interexchange Transporter Daytime Rate (HITDR). The service charge was the range of a minimum of \$1.00 to a maximum of the Highest Interexchange Transporter Charge (HITC). In other words, the tariff only told us the possible minimum charge. There was no discernable maximum listed. T-Netix Telecommunications Services, Inc. Supplement No. 2, Telephone-Pa.P.U.C. No. 2, Original Sheet 27.

The tariff for "Automated Collect-Only Local Service" was no better. The per minute weekday charge was the range of a minimum of \$0.05 to a maximum of the HITDR. The per minute night and weekday [sic] [weekend] charge was the range of a minimum of \$0.02 to a maximum of the HITDR. The service charge was the range of a minimum of \$1.00 to a maximum of the HITC. In other words, the tariff again only tells us the possible minimum charge. There was no discernable maximum listed. T-Netix Telecommunications Services, Inc. Supplement No. 2, Telephone-Pa.P.U.C. No. 2, Original Sheet 28.

Having reviewed the tariff, I have concluded that, so long as the rates charged exceed the minimum amount listed in the tariff, the rate is legal with two exceptions. The first exception is that the per minute rate cannot exceed the HITDR, and the second is that the service charge cannot exceed the HITC. Unfortunately, the HITDR and the HITC were not defined in the tariff nor was there a reference to where these indices can be found. Therefore, I have concluded that the rates published in the T-Netix prepaid price list became the tariffed rates for the calls, absent a showing that the rates exceed the HITDR and the HITC.

Turning my attention to the price list at issue in this case, I found that the crux of this dispute centered on the Company's language which stated, in part, as follows:

COST OF THE CALL

...

Prepaid Rates. *

...

Extended Local Area \$1.45 + per minute charges ** + applicable taxes
**

Usage Mileage Band:	Peak		Off-Peak	
	First Min	Addl Min	First Min	Addl Min
1-16	\$ 0.130	\$ 0.130	\$ 0.065	\$ 0.065
17-354	\$ 0.160	\$ 0.160	\$ 0.080	\$ 0.080

In Pennsylvania (long distance) \$2.25 + \$0.22/minute + applicable taxes

Coleman Exh. A. I note that the terminology, "Extended Local Area," was defined by the mileage bands on the price list, but not in the tariff. The terminology, "In Pennsylvania (long distance)," was not defined on the price list or in the tariff. In addition, the tariff terminology, "Automated Collect-Only IntraLATA Long Distance Service" and "Automated Collect-Only Local Service," were not used in the price list either. In essence, T-Netix created an ambiguity. Mr. Coleman correctly testified that the distance between Somerset and Pittsburgh was about 70 miles and that his off-peak call from Somerset to Pittsburgh fell within the mileage band for Extended Local Area calls and should have been priced at \$1.45 for the connection fee and \$0.08 per minute thereafter. See, Findings of Fact 5, 7. I agree. Ms. Edmonds, attorney for T-Netix,

argued that, while the distance between Somerset and Pittsburgh may have been 70 miles, the call in question crossed a Local Access and Transport Area (LATA) boundary. She continued that, because the call crossed the LATA boundary, the proper charge was \$2.25 for the connection fee and \$0.22 per minute thereafter. I also agree.

Given that both parties were correctly interpreting what was written on the price list, the question became: Which rate should be applied? Section 1303 of the Public Utility Code specifies that, if a utility has more than one rate applicable to a service, the customer is entitled to receive the lower of the two rates. 66 Pa. C.S. §1303. Applying the statute to the facts results in Mr. Coleman being entitled to the Extended Local Area rate. Mr. Coleman calculated the difference to be three dollars per 15 minute call. See, Finding of Fact 5. My calculations brought similar results. The Extended Local Area rate would cost \$2.65 for a 15 minute off-peak call plus tax. (My calculations were: $\$1.45 + (.08 \times 15 = 1.20) = \2.65 .) The In Pennsylvania (long distance) rate would cost \$5.55 for a 15 minute off-peak call plus tax. (My calculations were: $\$2.25 + (.22 \times 15 = \$3.30) = \$5.55$.) The difference between these two numbers would be \$2.90 plus the difference in the taxes. (My calculations were: $\$5.55 - 2.65 = \2.90 .) For each prepaid telephone call Mr. Coleman made from SCI Somerset to Pittsburgh T-Netix owes him a refund of \$2.90 plus the difference in taxes plus interest at the legal rate from the date of each excessive payment. 66 Pa. C.S. §1312(a). I hasten to add that Mr. Coleman was transferred from SCI Somerset to SCI Pittsburgh on June 3, 2003. See, Finding of Fact 15. Thus, the Company's liability for overpriced calls has a defined end date.

By letter dated August 12, 2003, Ms. Edmonds sent the affidavit of Robert Comstock, Vice President of Business Development for T-Netix, to me with a copy to Mr. Coleman. Attached to the affidavit was a letter, dated June 26, 2003, from T-Netix Customer Service notifying Mr. Coleman at SCI Somerset 1) that it was adjusting his account for overcharges for 15 calls made by him using T-Netix services and 2) that his account was credited with \$3.28 effective April 29, 2003. At the request of counsel, the affidavit with the attachment was admitted into the record without objection. Mr. Coleman denied receiving the letter and the credit. I agree with Mr. Coleman. The letter notice of the credit was dated June 26, 2003, and he

was transferred to SCI Pittsburgh on June 3, 2003. In addition, he testified that he kept a careful watch on his prepaid account. See, Findings of Fact 10, 11, 14, 15.

There are several issues which militate against the Company with regard to the affidavit and the June 26 letter. I start with the premise that counsel for T-Netix agreed that the affidavit and the letter were both hearsay which lacked corroboration on the record. Tr. 26. T-Netix produced no witnesses. Mr. Comstock did not testify or authenticate his affidavit. The June 26 letter is not signed by anyone, nor was it authenticated by any witness. Properly objected to hearsay is inadmissible and must be excluded from the record. Anderson v. Department of Public Welfare, 79 Pa. Cmwlth. Ct. 182, 468 A.2d 1167 (1983); Application of Carmen G. Henderson, A-00110088 (Opinion and Order, adopted December 15, 1993, entered January 3, 1994) at 24. If hearsay is not objected to, the hearsay is admissible but cannot form the basis of a fact-finding unless it is corroborated by competent, non-hearsay evidence of record. Walker v. Unemployment Compensation Board of Review, 27 Pa. Cmwlth. Ct. 522, 367 A.2d 366 (1976); Cox v. Bell Telephone Co. of Pennsylvania, Inc., F-00214235 (Opinion and Order adopted January 12, 1995, entered January 19, 1995) at 3; Application of Carmen G. Henderson at 24. Under these circumstances, I find that the Company did not present any legally useful evidence. At best, I find that the documents demonstrate a general admission that T-Netix was liable for a refund to Mr. Coleman.

My conclusion that T-Netix failed to produce any legally useful evidence is important because Mr. Coleman had the burden of proving he was entitled to a refund. 66 Pa. C.S. §332(a). Pretty clearly, I concluded that he carried his burden and established a prima facie case. Given that he carried his burden, the burden of going forward with evidence (not to be confused with the burden of proof) shifted to the Company to rebut Coleman's presentation. Without legally useful evidence, T-Netix could not succeed. It had no evidence which means that the weight of the evidence (indeed the only evidence) was in favor of Mr. Coleman. Not only did Mr. Coleman establish that he was entitled to a refund, but, by virtue of his testimony that he kept a close watch on his prepaid account balance and his denial of having received a refund, he also undermined the Company's defense that it had already paid him a complete refund. See, Findings of Fact 7, 11.

I hasten to add that, even if the documents presented by T-Netix had been legally useful, the Company defense would have been irrelevant. Basically, the alleged refund discussed in the Company's documents is not a refund for the difference between the Extended Local Area rate and the In Pennsylvania (long distance) rate. T-Netix submitted this information based on Mr. Coleman's allegation that the Company increased its rates without notice to the inmates in his Amended Complaint. According to the Company's documents, the alleged "refund" of \$3.28 was calculated based on the discovery that T-Netix inadvertently charged \$2.25 for a connection fee and \$0.24 per minute (instead of \$0.22) for several weeks for the In Pennsylvania (long distance) rate. While I appreciate the Company's willingness to admit to an occasional error and its efforts to correct the same, it missed the real point of this case. My calculation of the refund due to Mr. Coleman is not about mistakenly charging a slightly higher rate for a short period of time. Rather, both the original Complaint and the Amended Complaint plainly set forth Mr. Coleman's contention that the Extended Local Area rate should apply. My main concern is the apparent overlap in the rates offered for the same service. I calculated that the refund owed to Mr. Coleman was \$2.90 plus the tax differential per call for all prepaid calls from Somerset to Pittsburgh.

I have some reservations about the calculation of the \$3.28 refund, too. The affidavit and the June 26 letter indicate that T-Netix allegedly tried to limit the refund to \$3.28 for "overcharges on 15 calls." June 26 Letter. Simple math ($\$3.28 / 15$) indicates that the alleged T-Netix refund was slightly more than \$0.21 per call. Unfortunately, there is no explanation of what criteria were used to determine that the refund liability was limited to only these 15 specific calls. There is no way to conclude that the Company calculated the correct amount for the correct number of calls which originated in Somerset and terminated someplace else. There is no proof that Mr. Coleman actually got the refund, either. The T-Netix description of its refund effort was inadequate to insulate it from liability--even on the issue of short-term liability for small overcharges.

The last issues are to clarify how the refund should be calculated and applied to Mr. Coleman's account and how to close this case. At the risk of repetition, I have concluded

that Mr. Coleman is entitled to a refund of \$2.90 plus the tax differential per call for all prepaid calls from Somerset to Pittsburgh. The applicable time period for this refund started with the day that Mr. Coleman first used his prepaid account in SCI Somerset to make calls to Pittsburgh and ended with his transfer to SCI Pittsburgh on June 3, 2003. I will further direct the parties to cooperate and agree on the number of calls involved as they reconstruct the list of calls from prison information and their own records. The refund should be credited to Mr. Coleman's Commissary account with full written notice to the Secretary of the Commission and Mr. Coleman within thirty (30) days of receipt of the Commission's final order in this case. After the refund is credited, T-Netix shall file a Certificate of Satisfaction with the Secretary of the Commission, detailing how the refund was calculated and giving clear notice to Mr. Coleman of what to do in the event he disagrees with the representations in the Certificate. Upon the receipt of the Certificate and the expiration of the Certificate response time without objection from Mr. Coleman, the Secretary shall close the case.

CONCLUSIONS OF LAW

1. So long as the prepaid rates charged exceed the minimum amount listed in the T-Netix tariff, the rate is legal with the exceptions that the per minute rate cannot exceed the HITDR and the service charge cannot exceed the HITC.
2. The rates published in the T-Netix prepaid price list became the tariffed rates for the calls, absent a showing that the rates exceed the HITDR and the HITC.
3. The HITDR and the HITC are not defined in the tariff nor is there a reference to where these indices can be found.
4. Section 1303 of the Public Utility Code specifies that, if a utility has more than one rate applicable to a service, the customer is entitled to receive the lower of the two rates. 66 Pa. C.S. §1303. Applying the statute to the facts results in Mr. Coleman being entitled to the Extended Local Area rate.

5. For each prepaid telephone call Mr. Coleman made from SCI Somerset to Pittsburgh T-Netix owes him a refund of \$2.90 plus the difference in taxes plus interest at the legal rate from the date of each excessive payment. 66 Pa. C.S. §1312(a).

6. Counsel for T-Netix agreed that the Comstock affidavit and the June 26, 2003 letter were both hearsay which lacked corroboration on the record. Tr. 26.

7. Properly objected to hearsay is inadmissible and must be excluded from the record. Anderson v. Department of Public Welfare, 79 Pa. Cmwlth. Ct. 182, 468 A.2d 1167 (1983); Application of Carmen G. Henderson, A-00110088 (Opinion and Order, adopted December 15, 1993, entered January 3, 1994) at 24.

8. If hearsay is not objected to, the hearsay is admissible but cannot form the basis of a fact-finding unless it is corroborated by competent, non-hearsay evidence of record. Walker v. Unemployment Compensation Board of Review, 27 Pa. Cmwlth. Ct. 522, 367 A.2d 366 (1976); Cox v. Bell Telephone Co. of Pennsylvania, Inc., F-00214235 (Opinion and Order adopted January 12, 1995, entered January 19, 1995) at 3; Application of Carmen G. Henderson at 24.

9. The Comstock affidavit and the June 26, 2003 letter were not legally useful as evidence.

10. The Comstock affidavit and the June 26, 2003 letter demonstrate a general admission that T-Netix was liable for a refund to Mr. Coleman.

11. Mr. Coleman had the burden of proving he was entitled to a refund. 66 Pa. C.S. §332(a).

12. Mr. Coleman carried his burden and established a prima facie case.

13. When Mr. Coleman carried his burden, the burden of going forward with evidence (not to be confused with the burden of proof) shifted to the Company to rebut Coleman's presentation.

14. The failure of T-Netix to produce any evidence eliminated any possibility of rebutting Mr. Coleman's case.

ORDER

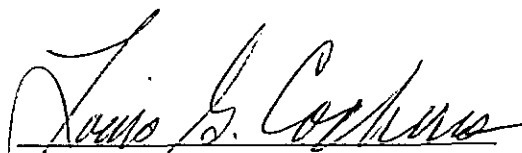
NOW, THEREFORE,

IT IS ORDERED:


1. That the Complaint of Sherman Coleman, AJ-2324, versus T-Netix, Inc. and T-Netix Telecommunications, Inc., at Docket No. C-20039232 is sustained.
2. That T-Netix, Inc. and T-Netix Telecommunications, Inc., shall refund to Sherman Coleman, AJ-2324, \$2.90 plus the tax differential per call plus interest at the legal rate from the date of each excessive payment for each prepaid call made by Mr. Sherman from SCI Somerset to Pittsburgh for the period ending June 3, 2003.
3. That T-Netix, Inc. and T-Netix Telecommunications, Inc., and Sherman Coleman, AJ-2324, shall cooperate and agree on the number of calls involved in Paragraph 2 above as they reconstruct the list of calls from prison information and their own records.
4. That T-Netix, Inc. and T-Netix Telecommunications, Inc., shall refund to Sherman Coleman, AJ-2324, the full amount identified in Paragraphs 2 and 3 above by crediting Mr. Coleman's prison commissary account (if his incarceration continues) or in-hand (if he is no longer incarcerated) with written notice to Mr. Coleman and to the Secretary of the Commission within thirty (30) days of receipt of the Commission's final order.


5. After the refund is credited, T-Netix, Inc. and T-Netix Telecommunications, Inc., shall file a Certificate of Satisfaction with the Secretary of the Commission, detailing how the refund was calculated and giving clear notice to Mr. Coleman of what to do in the event he disagrees with the representations in the Certificate. Upon the receipt of the Certificate and the expiration of the Certificate response time without objection from Mr. Coleman, the Secretary shall close the case.

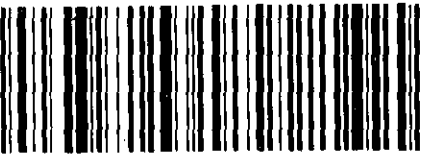
DATED: February 17, 2005



Louis G. Cocheres
Administrative Law Judge

2. Article Number		COMPLETE THIS SECTION ON DELIVERY	
 7160 3901 9843 0727 0018		A. Received by (Please Print Clearly) TERRI MELAT	B. Date of Delivery 3-17-05
3. Service Type CERTIFIED MAIL		C. Signature X <i>Terri Melat</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
4. Restricted Delivery? (Extra Fee) Yes		D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below: PO BOX 502945 SCITOP FOREST MARTENVILLE, PA 16239-0307	
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; margin: 5px;"> C-20039232 ID SHERMAN COLEMAN AJ-2324 SCI PITTSBURGH PO BOX 99901 PITTSBURGH PA 15231 </div>			
PS Form 3811, February 2003		Domestic Return Receipt	

2. Article Number		COMPLETE THIS SECTION ON DELIVERY	
 7160 3901 9843 0727 0025		A. Received by (Please Print Clearly) Grace Perez	B. Date of Delivery 3/16/05
3. Service Type CERTIFIED MAIL		C. Signature X <i>Grace Perez</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	
4. Restricted Delivery? (Extra Fee) Yes		D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:	
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; margin: 5px;"> C-20039232 ID ANDREA P EDMONDS ESQUIRE GLENN B MANISHIN ESQUIRE KELLY DRYE & WARREN LLP TSONS CORNER 8000 TOWERS CRESCENT DR SUITE 1200 VIENNA VA 22182 </div>			
PS Form 3811, February 2003		Domestic Return Receipt	

2. Article Number		COMPLETE THIS SECTION ON DELIVERY	
 7160 3901 9843 0727 0032		A. Received by (Please Print Clearly) M. GAROFALO	B. Date of Delivery 3-16-2005
3. Service Type CERTIFIED MAIL		C. Signature X <i>M. Garofalo</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
4. Restricted Delivery? (Extra Fee) Yes		D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:	
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; margin: 5px;"> C-20039232 ID ENRICO C SORIANO ESQUIRE KELLEY DRYE & WARREN LLP 1200 19TH STREET NW SUITE 500 WASHINGTON DC 20036 </div>			
PS Form 3811, February 2003		Domestic Return Receipt	

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SECRETARY'S BUREAU

Case Identification:

C-20039232; Sherman Coleman, AJ-2324
v. T-Netix, Inc., and T-Netix
Telecommunications, Inc.

Initial Decision By:

ALJ Louis G. Cocheres

Deadline for Return to OSA:

March 28, 2005

This decision has not been reviewed by OSA.

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I want full Commission review of this decision.

Commissioner

Date

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Spencer J. Sklar

Commissioner

3/29/05

Date

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Robert K. Bloom/rk
Commissioner

3-28-05
Date

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X Kim Spingilla

Commissioner

3-25-05

Date