

October 28, 2013

Rosemary Chiavetta, Secretary  
Pennsylvania PUC  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Tyrone Gibbs v Global Tel Link Corp  
Docket No. C-2013-2358084

Dear Secretary Chiavetta:

Enclosed for filing is Complainants Response To Respondents Objections To Complainants Motion For Leave To File Subpoenas in the above referenced matter.

The parties of record and the Presiding Officer have been served as evidenced by the attached Certificate of Service.

Sincerely



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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Tyrone Gibbs FS7093

v

Docket No. C-2013-2358084

Global Tel Link Corporation

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COMPLAINANTS RESPONSE TO RESPONDENTS  
OBJECTIONS TO COMPLAINANTS MOTION  
FOR LEAVE TO FILE SUBPOENAS  
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Pursuant to 52 Pa. Code §5.421(f), "Complainant" Tyrone Gibbs files this Response To Respondents Objection to Complainants Motion For Leave To File Subpoenas. In support of which, Complainant respectfully submits the following.

**I BACKGROUND**

On or about march 25,2013, Complainant filed with the Commission a Formal Complaint against GTL, alleging service malfunctions and arbitrary refund policies with the telephone system at the State Correctional Facility at Graterford, where Complainant is an inmate. Following unsuccessful attempts by Complainant to settle the matter, including him rejecting GTL's last twenty-five dollar (\$25.00) offer, a hearing went forward on October 3,2013 where Complainant requested particular service members from GTL and was denied, after which GTL called upon their own surprise witness, Kathy Tarkir, whose testimony shed no significant light on the matter. Also, Complainant, because of his naivety, misunderstanding, and misapplication of Civil Law was not able to call forth the correct personnel whose testimony would have made clear the factual basis for which Complainant complains about. For

the reasons set forth below, Complainant again asks that his request for Subpoenas be honored.

## II. ARGUMENT

Any request made by Complainant, albeit Discovery or Subpoena for a witness has been with one end in mind- To uncover and bring to light the problems within the phone system that GTL seems to be oblivious too, and then secondly, find an amicable solution to it. During the October 3,2013 hearing, the sole witness called by GTL did nothing to effectuate this agenda. According to her own testimony, Ms.Kathy Tarkir didn't know if the phones had ever been serviced, and if so, for what reasons. She also didn't know how many complaints had ever been filed with GTL in reference to the phone system, or if any complaints had ever been filed with GTL concerning the phones. Ms.Tarkir also didn't seem to know GTL's own policy protocol when it came to cell phones. These issues are the crux of Mr Gibbs' complaint, and not addressing them achieves nothing. Complainant is actually left wondering why GTL, in the interest of integrity and good business, practice, called upon Ms.Tarkir instead of somebody else within their ranks who actually works directly with the phones at Graterford, like their Field Service Rep or a phone technician, who could have brought clarity that spoke to the heart of the matter.

By filing Subpoena's and calling the relevant parties who's direct responsibility it is to maintain, service, and repair these very phones, Complainant only seeks to show this court and complete the record, through proofs and evidences that his contentions are accurate, founded, and that he is entitled for relief. And for this reason Complainant asks this Court to GRANT Complainant's Motion For Leave To File Subpoena's.

## III. ADDITIONAL ARGUMENT

In receiving and reviewing documents through the Discovery process thus far, Complainant has realized that the documents received to date (phone logs,call query,refund policy), on their face alone do not tell

a complete story, and in fact, when viewed alone and not in conjunction with other evidence may even paint an inaccurate, out of context picture. The Call Query and Phone Logs of Complainant merely show that at some point on certain days and times that he did use the phone, and at some point in time did in fact hang up. As to why Complainant hung up, be it thru malfunction or his own free will, one is left in the dark, as by these documents alone this is not shown. What is needed in order for a complete factual picture to be painted is simply the GTL Phone Technician and his records/logs, which is who and what Complainant seeks to procure thru Subpoena. These individuals associated with this field of expertise, along with said logs/records would in and of themselves be able to validate or dispell the existence of the problems Complainant alleges. The responses given to Complainant when he submitted Discrepancy Forms to the phone company petitioning for his refund when the phones cut off on him refer to the lodging of his problems onto "Complaint Tickets" forwarded to GTL and their technicians. So it is these people who should be called to the floor with their records/logs because they are the ones who's acts, answers, and determinations on behalf of GTL are the determining factor in the issuance of refunds. And it for these reasons that Complainant asks this Court to GRANT his Motion For Leave To Issue Subpoenas in the interest of justice.

#### IV. RESPONDENTS ERRORS IN REGARDS TO SUBPOENAS

A. In Complainants original Motion For Leave To File Subpoenas he begs this Courts pardon for him not following Rules of Civil Procedure 4003. 5 (a)(1)(3)(b) and procedures established in 52 Pa. Code §5. 421 relating to putting the Court and opposing party on notice concerning witnesses. And because neither him nor GTL had followed these directives, Complainant asked this Court to allow both these indiscretions to cancel one another out and he be allowed to call the witnesses who testimony would speak to the heart of the matter.

However, GTL, in its Objections brief(pg. 2), says in its footnote(1) that Ms. Tarkir was offered as a witness during the August 8, 2013 Hearing, implying that they were always in compliance with this

Courts directives concerning these same Rules of Court and that only Complainant was derelict in this responsibility. This is simply not true. The only paperwork submitted in reference to the August 8, 2013 Hearing date was Complainants Request for Continuance because GTL had yet to comply with his Discovery request. There is no Certificate of Service indicating that GTL ever put this Court or Complainant on notice in regards to witnesses per Rules of Civil Procedure, So their assertion is a misrepresentation of the record. And for this reason does Complainant ask that this Court allow the record to be completed by extending the same courtesy to him as it did GTL in allowing his witnesses to be called forth. Therefore, his Motion should be GRANTED.

B. Respondent cites alleged multiple violations of statues under Commissions Rules of Practice and Procedure by Complainant to further strengthen its argument in denying Complainants Motion. However, upon a complete review of these statues, it becomes clear that they instead support Complainants position rather than speak against it. Respondents cite 52 Pa. Code §5. 421(b) and says that Complainant's Motion For Subpoenas meets none of its requirements. However, Respondent fails to acknowledge that according to 52 Pa Code §5 421(1) the Commission Officer on his/her own Motion(Sua Sponte) is authorized to issue subpoenas. So Complainant can not be held at fault for an *administrative process that has yet to take place.*

Respondents state that since Complainants Motion For Subpoenas is absent a Notice To Plead it is technically flawed. They point to 52 Pa. Code §1. 58 as a proof of this. But, upon inspection, Pa. Code §1. 58 applies to Service, and there is no requirement to file Notice to Plead as regards subpoenas in this section. Respondents again mislead and misconstrues administrative process.

*Lastly, in terms of the materiality, scope, and relevancy of the requested documents, these subpoenas relating to GTL's Phone Technician, Field Technician, and their accompanying records/logs are because these people have the relevant information that was not supplied by Ms Kathy Tarkir because of her lack of knowledge in this in particular arena,(ie., referencing the reason and method for termination of calls, logs of if dropped calls have been reported to*

GTL, and if so, for how long was GTL aware, GTL's service & maintenance reports concerning phones specifically at Grostead.

Contrary to GTL's assertion that, "Complainant is quite familiar with the Commissions rules and has chose to ignore them" (Respondents Motion pg. 5), Complainant is at best a layman, and is only learning the process as we go. In the face of being wronged by my phone provider and getting nowhere after reaching out to them, I contacted the PUC as my last resort. I was then given a hearing date and thrust into an arena which is totally foreign to me, and told to fight in this arena or lose out on the opportunity to redress the wrongs done me. Perhaps this is why the Courts give a wider degree of latitude to its Judges, for not knowing all the Rules of Court doesn't make a complaint unfounded. In fact Complainant had acknowledged his unfamiliarity with the Rules, and apologized for the undue burdens that his ignorance had brought upon this Court. Thus further pointing to the baselessness of Respondents take on his legal acumen.

#### V. CONCLUSION

Based on the foregoing, the Complainants Motion for Leave to File Subpoenas should be GRANTED and the Presiding Officer should compel respondents to comply by providing their Phone Technicians along with the appropriate records and logs needed in this matter.

Respectfully Submitted,



Date: October 28, 2013

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Tyrone Gibbs FS7093

v

Docket No. C-2013-2358084

Global Tel Link Corporation

ORDER

AND NOW, to wit, this day of , 2013, upon consideration of the within Complainants Response To Respondents Objections To Complainants Motion For Leave To File Subpoenas under 52 Pa. Code §5.421(f), it is hereby ORDERED AND DECREED that Complainant's Motion be GRANTED.

BY THE COURT

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Melillo, K

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CERTIFICATE OF SERVICE

I, Tyrone Gibbs, certify that on this date I served true and correct copies of Complainants Response to Respondents Objections To Complainants Motion For Leave To File Subpoenas on the below-named parties by First Class mail, postage prepaid:

Hon Kandace F Melillo  
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PA Public Utility Commission  
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Kevin Lefton, Esq  
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GTL Corp  
12021 Sunset Hill Road, Suite 100  
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Dated: October 28, 2013

Tyrone Gibbs

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