

January 20, 2014

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PA.P.U.C.
SECRETARY'S BUREAU

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

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

Dear Secretary Chiavetta:

Enclosed for filing is Complainants Motion To Open Discovery 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,

Tyrone Gibbs

BEFORE THE
PUBLIC UTILITY COMMISSION

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Tyrone Gibbs

v

Docket No. C-2013-2358084

Global Tel Link Corporation

ORDER

AND NOW, to wit, this day of ,2014, upon consideration of the
within Motion To Open Discovery under 52 Pa. Code §5.103, it is hereby
ORDERED AND DECREED that Complainants motion be GRANTED.

BY THE COURT

Melillo, K

BEFORE THE
PUBLIC UTILITY COMMISSION

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Tyrone Gibbs

v

Docket No C-2013-2358084

Global Tel Link Corporation

COMPLAINANT'S MOTION FOR OPEN DISCOVERY

Pursuant to 52 Pa. Code §5.103, "Complainant" Tyrone Gibbs files this above mentioned Motion. 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 malfunction 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, a hearing went forward on October 3, 2013. Because of time constraints, the hearing was continued until January 15, 2014. In the interim, Your Honor granted Complainant's Motion for Reconsideration to the extent that GTL was directed to present additional witness(s) who had the technical expertise and knowledge to directly address Complainant's assertions of inadequate telephone service at Graterford. At the January 15, 2014 hearing said witnesses did appear for GTL. Under questioning, Mr. Tom Fulton, GTL's witness, contradicted his own testimony several times. He also referenced several documents, one of which was submitted later and allowed to be held as an exhibit. For the reasons set forth below, Complainant asks this Court to require GTL's witness (Tom Fulton) to

submit the 'Complaint Ticket' Record Ledger from January 2010 until present that he testified from, and referred to thru-out his testimony, so that Your Honor and Complainant can be privy to its contents for clarity purposes.

II. ARGUMENT

Complainant understands that under 52 Pa.Code §5.331(b) "[a] participant shall endeavor to initiate discovery as early in the proceedings as possible." He also notes that under this Commissions regulations of 52 Pa.Code §1.2, there is allowable a liberal construction of procedural regulations. Perhaps because during the process of litigation, unique situations occur, and in the interest of justice Judges need to be afforded the latitude to adapt in order to accommodate the pursuit of this justice. Complainant pleads that this case presents such a set of unique circumstances.

A major part of Gibbs' claim cannot be proven without the physical evidence of a malfunctioning system. And in all talks thus far GTL has continuously disavowed any major problems with the current phone system, which in itself, by default, puts more of an emphasis on all the pieces of circumstantial evidence. All of which either point to, or away from, the existence of the problems Complainant contends.

In this case, what speaks to the heart of the matter is whether or not there are systemic problems with GTL's phone system, and whether or not said problems;(1) have disrupted service, causing the phones to momentarily shut-off and drop inmates calls, and (2), whether or not GTL is aware of them. During the 1/15/2014 hearing, Mr. Tom Fulton testified on behalf of GTL concerning these issues. In doing so, he read from the very ledgers that he said documented all complaints & problems with, and the maintenance of, the phone system dating back to January 2010. He also admitted under questioning by Complainant, that the ledger was rather lengthy and time consuming to read from, so when presented with straight forward questions concerning entry's of maintenance/service problems, he said that at best all he could do, without more time, was 'guesstimate' and then proceeded to give cursory answers.

Complainant offers that in light of the magnitude of this crucial

information, we cannot simply take Mr Fulton's and GTL's "word for it". Because he testified from these ledgers, I should be afforded a copy of them, as was the case with the DOC ADM 818 Policy Mr Fulton referenced and was then submitted as evidence.

Furthermore, since Mr Fulton knew beforehand the exact nature of what he would be called to testify for, he should have had these exact answers("According to your ledger, exactly how many times have you logged complaint tickets for systemic problems i e, dropped calls in the past month, year, 2 years... since Jan 2010?" & "According to your ledger, how many times was the system serviced since Jan 2010 for problems?" 1/15/2014 transcripts), as they spoke to the exact problems that Complainant had enumerated in the Discrepancy Forms that he filled out and were previously viewed before the hearing by Mr. Fulton.

Moreover, in light of the totally contradictory nature of other parts of Mr. Fulton's testimony, be it from him being misinformed to him accidentally misrepresenting official documents, the fact remains that because he did so on major issues, reasonable doubt as to whether or not Mr. Fulton was giving full and complete disclosure of the facts allegedly recorded in the Complaint Ticket Ledger is prevalent. It would only benefit Your Honor and Complainant to have copies of the ledger to proof read and verify Mr. Fulton's assertions. In fact, it was after You Honor opened up a line of questioning of Mr. Fulton concerning the contract between the Pa.DOC and GTL that these inconsistencies were highlighted [At one point Mr Fulton said that DOC ADM Policy 818 categorically read no refunds for cell phones, and that he relies on this policy when making determinations as to whether or not to issue a refund, and further, if it is a cell phone Discrepancy Form, he immediately disregards it. He then in the same breath said that despite this policy, and the contract between GTL and the Pa.DOC, he has issued refunds for cell phones. 1/15/14 transcripts]. These vacillating positions only obfuscate the facts and emphasize the need for all documents to be submitted and proofread.

Lastly, although 52 Pa.Code 85.331(b) requires in part that "[a] participant shall endeavor to initiate discovery as early in the proceedings as possible", in this unique situation the request could not have been made early and prior to the hearings, as this information (and

lack thereof), was only elicited during the hearing, as was the information dealing with DOC policy ADM 818, which was just submitted for all parties to view.

III. CONCLUSION

For all the reasons set forth above Complainant asks this court to GRANT this Motion For Open Discovery and order Respondents to submit the Complaint Ticket/Maintenance Ledger of Tom Fulton from January 2010 to present so that Your Honor can make a decision base on a full and accurate record.

Respectfully Submitted,

Tyanna Gibbs

Date: January 20, 2014

CERTIFICATE OF SERVICE

I, Tyrone Gibbs, certify that on this date I served true and correct copies of Complainants Motion To Open Discovery on the below-named parties by First-Class Mail, postage prepaid:

Hon. Kandace F. Melillo
Administrative Law Judge
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

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Dated: January 20, 2014


Tyrone Gibbs Complainant

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