

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael Davis AM4973	:	
	:	
v.	:	Docket No. C-2013-2395438
	:	
Global Tel* Link Corporation	:	

**MOTION OF GLOBAL TEL*LINK CORPORATION
FOR LEAVE TO FILE ANSWER TO COMPLAINT
*NUNC PRO TUNC***

Pursuant to 52 Pa. Code § 5.103, Global Tel*Link Corporation (“GTL” or “Respondent”) submits this Motion for Leave to File an Answer to the Formal Complaint of Michael Davis *Nunc Pro Tunc* ("Motion"). In support of its Motion, Respondent respectfully submits the following:

1. On or about November 18, 2013, Michael Davis, an inmate at the Graterford State Correctional Institution (“Graterford”) and a user of GTL phone service at the facility, filed a Formal Complaint at the Commission which was docketed at Docket No. C-2013-2395438 (“Complaint”).
2. The Complaint alleges, among other things, that Complainant has experienced issues with the telephone service Respondent provides at Graterford and requests a refund.
3. On December 4, 2013, the Commission served the Complaint on GTL and advised Respondent of the twenty (20) day period to respond to or satisfy the Complaint.

4. On December 9, 2013, Respondent filed with the Commission's Bureau of Consumer Services a formal response to Mr. Davis' Complaint and explained that the claims could not be investigated because Mr. Davis did not provide sufficient information.¹

5. Under Section 5.61 of the Commission's regulations, an Answer to the Complaint was due on or about December 24, 2013. Under the rule, an Answer filed after the due date is out of time and may be rejected by the Commission.²

6. Respondent believes, and therefore avers, that the service and refund issues raised in the Complaint are amenable to settlement.

7. Since the filing of the Complaint, Respondent has gathered relevant information with regard to the claims in the Complaint and has sought to settle the matter amicably, prior to any hearing in the matter.

8. Respondent has reached out to the Complainant in order to engage in settlement discussions, but thus far, has been unable to reach a settlement in the matter.

9. Respondent has sought the Complainant's consent to an extension of time to answer the Complaint, and the Complainant has not agreed to such an extension as of the date of this filing.

10. After attempting and failing to reach a settlement with the Complainant, Respondent has concluded that it is necessary to file an Answer to the Complaint.

11. On or about March 5, 2014, Respondent received correspondence from Mr. Davis setting forth a number of information requests, which GTL is treating as interrogatories and requests for documents.

12. GTL is endeavoring to answer the discovery questions submitted by Mr. Davis.

¹ See, Correspondence of December 9, 2013 attached hereto as Exhibit A.

² 52 Pa. Code § 5.61.

13. Respondent respectfully requests that the Commission grant leave to GTL to file an Answer to the Complaint of Mr. Davis, *nunc pro tunc*, and to respond to the allegations in the Complaint.

14. Pursuant to Section 1.91 of the Commission's regulations, 52 Pa. Code § 1.91, the Commission has the authority to waive or make an exception to any provision in its regulations or requirements that would otherwise lead to the rejection of a pleading, filing or other submittal.

15. GTL respectfully requests that the Commission waive or make an exception to the 20-day answer requirement under Section 5.61 of the Commission's regulations, 52 Pa. Code § 5.61, and allow the Respondent to file an Answer to the Complaint out of time (*nunc pro tunc*).

16. Respondent has prepared an Answer to the Complaint and New Matter ("Answer"), which Respondent intends to file upon the Commission's grant of this Motion for Leave.³

17. In its proposed Answer, Respondent denies the substantive allegations in the Complaint and seeks to dismiss certain claims in the Complaint.

18. Respondent believes, and therefore avers, that granting this Motion would not be prejudicial to the Complainant because the Complaint remains pending and continues to be subject to adjudication by the Commission.

19. Further, providing an opportunity for Respondent to set forth its position on the issues raised in the Complaint may narrow the issues in dispute, facilitate mediation and encourage the parties to settle the matter prior to hearing.

20. Lastly, granting this Motion would allow the parties to continue to exchange discovery, set forth their positions and seek an amicable settlement.

³ The proposed Answer is attached hereto as Exhibit B.

WHEREFORE, Respondent respectfully requests that the Commission grant this Motion for Leave to File an Answer *Nunc Pro Tunc*, and issue an Order granting the Motion and permitting Respondent to file the proposed Answer attached hereto as Exhibit B.

Respectfully submitted,

THE LANZA FIRM, LLC



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Counsel for Global Tel*Link Corporation

March 24, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion upon the persons listed below via first class mail in accordance with the requirements of 52 Pa. Code Section 1.54 of the Commission's rules:

Via regular mail and/or email:

MICHAEL DAVIS AM4973
PO BOX 244
GRATERFORD PA 19426

KEVIN LEFTON, ESQ.
GLOBAL TEL*LINK CORPORATION
12021 SUNSET HILLS ROAD SUITE 100
RESTON VA 20190

HON. DAVID A. SALAPA
ADMINISTRATIVE LAW JUDGE
PA PUBLIC UTILITY COMMISSION
PO BOX 3265
HARRISBURG PA 17105-3265



Edward G. Lanza, Esq.

Date: March 24, 2014



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December 9, 2013

Pennsylvania Public Utility Commission
Bureau of Consumer Services
P. O. Box 3265
Harrisburg PA. 17105-3265

Re: Michael Davis – Docket # C-2013-2395438

This letter serves as a formal response to the above referenced complaint.

The customer contacted the Public Utility Commission because the calls he makes to family and friends disconnect prematurely. Mr. Davis is requesting a refund for the disconnected calls.

We attempted to investigate this complaint; however Mr. Davis did not provide the dates and times of the calls in question. Without this information we are unable to listen to the recordings of the calls to determine if credit needs to be issued to his account. GTL has sent a copy of this letter to Mr. Davis asking for the information so we can investigate.

GTL anticipates that this will close this complaint and should you have any additional questions please feel free to contact me directly.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Kevin B. Lefton".

Kevin Lefton
Senior Counsel

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Michael Davis AM4973

v.

Docket No. C-2013-2395438

Global Tel*Link Corporation

**ANSWER AND NEW MATTER
OF GLOBAL TEL*LINK CORPORATION**

I. INTRODUCTION

In accordance with 52 Pa. Code § 5.61, Global Tel*Link Corporation (“GTL” or “Company”) submits this Answer and New Matter in response to the Formal Complaint filed by Michael Davis in the above-captioned matter .

The Complaint in this matter fails to set forth even the more basic facts to support the allegations against GTL. In addition, the Complaint appears to allege a cause of action which is outside of the applicable statutes of limitations.

II. ANSWER

1. Admitted.
2. Admitted, except that the Respondent’s correct corporate name is Global Tel*Link Corporation.
3. Admitted.
4. Denied.
 - a. It is specifically denied that there is a reliability, safety or quality problem with the service provided by GTL at the Graterford correctional facility.

- b. It is specifically denied that calls made by Complainant using GTL's systems drop "with alarming frequency."
- c. It is specifically denied that GTL charges the full rate for a fifteen (15) minute call when a call drops "within seconds."
- d. It is specifically denied that GTL's "standard response" is to issue no refunds. GTL investigates claims of dropped calls and issues refunds when refunds are appropriate. As a matter of policy, GTL does not issue refunds for calls to cell phones which are terminated prematurely due to problems with the cell phone line called by an inmate.
- e. It is specifically denied that GTL provides "bad service" or that its system "needs to be fixed."
- f. It is specifically denied that GTL "profits" from "practices" alleged by Complainant.
- g. It is specifically denied that GTL "needs to be corrected or changed."

5. Denied. The averment in this paragraph calls for relief, and as such, no response is required. To the extent that Paragraph 5 contains any factual averments, the same are denied.

6. Denied. The Complainant has failed to provide any information in Paragraph 6 which GTL can admit or deny. To the extent that this paragraph contains any factual allegations, the same are denied.

7. Denied. The Complainant has failed to provide any information in Paragraph 7 which GTL can admit or deny. To the extent that this paragraph contains any factual allegations, the same are denied.

8. Denied. The Complainant has failed to provide any information in Paragraph 8 which GTL can admit or deny. To the extent that this paragraph contains any factual allegations, the same are denied.

9. Denied. This paragraph contains only a verification and signature, and as such no response is required. To the extent that this paragraph 9 contains any factual allegations, the same are denied.

10. Denied. This paragraph contains only information regarding filing, and as such no response is required. To the extent that this paragraph 10 contains any factual allegations, the same are denied.

III. REQUESTED RELIEF

WHEREFORE, for all the foregoing reasons, Global Tel*Link Corporation respectfully requests that the claims set forth in the Complaint be DISMISSED WITH PREJUDICE.

IV. NEW MATTER

1. The Complaint does not establish a cause of action for violation of any State law or Commission regulation or order.

2. The Complaint does not set forth any facts that would permit GTL to ascertain whether the Complainant is entitled to the relief requested.

3. The Complaint fails to set forth basic information that would allow the Company to investigate the allegations in the Complaint, including, but not limited to, phone numbers called, dates and times of calls, the phone from which calls originated, or whether the alleged problems were reported to the Graterford correctional facility or GTL.

4. GTL is unable to address the issues raised by the Complaint because it lacks basic information about the alleged problems with the telephone system at the Graterford facility.

5. When issues with its service are raised, GTL investigates specific reports or complaints, and if it is determined that the grievance is well-founded, the Company will issue refunds under appropriate circumstances and pursuant to existing policies.

6. Based on its own investigation, information and belief, GTL respectfully submits that alleged disconnected calls occurred more than four years ago, and therefore, claims relating to these calls are outside of the applicable statutes of limitations.¹

¹ 66 Pa. C.S. §§3314 and 1312.

7. Pursuant to Section 3314 of the Public Utility Code, “[n]o action for the recovery of any penalties... shall be maintained unless brought within *three years* from the date at which the liability therefor arose.”²

8. Pursuant to Section 1312 of the Public Utility Code,

If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within *four years* prior to the date of the filing of the complaint...³

9. In the course of its investigation of the Complaint, GTL has discovered that the Complainant has complained of calls terminated prematurely in 2009. If these reports are the basis for the Complaint, the claims of the Complainant must be dismissed as having been filed after the expiration of the applicable statutes of limitations.

10. GTL endeavors to resolve any legitimate issues raised by users of its telecommunications services or institutions it serves.

11. Finding that GTL has violated laws, regulations or orders based upon unfounded and unsupported allegations would violate GTL’s right to due process and would constitute an improper application of the Public Utility Code and the Commission’s regulations.

12. The Commission should refrain from sustaining the Formal Complaint, granting any remedy sought in the Complaint or imposing any sanction upon GTL based on allegations which are unsupported by facts or may have been filed in violation of the applicable statutes of limitations.

² 66 Pa. C.S. §3314(a) (emphasis added).

³ 66 Pa. C.S. §1312(a) (emphasis added).

V. CONCLUSION

WHEREFORE, for all the foregoing reasons, Global Tel*Link Corporation respectfully requests that the claims set forth in the Complaint be DISMISSED WITH PREJUDICE.

Respectfully submitted,

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Dated: March 24, 2014