

Tyrone Gibbs FS7093  
P O Box 244  
Graterford PA 19426

C-2013-2358084

Secretary  
PA PUC  
P O Box 3265  
Harrisburg, PA 17105-3265

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2014 DEC 22 AM 11:15  
PA.P.U.C.  
SECRETARY'S BUREAU

Dear Secretary,

Enclosed for filing is my copy of Complainants Exceptions  
I've also sent copies to all parties of record

Respectfully,

*Tyrone Gibbs*

Attention: Dear Secretary (Chiavetta?),

I inadvertently sent out an incomplete copy of this  
Exceptions, which is missing the last page. Enclosed is the complete  
brief which I would like entered into the record.

Respectfully II  
*Tyrone*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Tyrone Gibbs

v

Docket No C-2013-2358084

Global Tel Link Corporation

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EXCEPTIONS OF COMPLAINANT

I. INTRODUCTION

In accordance with 52 Pa. Code §1.58, Complainant, Tyrone Gibbs, submits this Exceptions of Complainant petition.

EXCEPTIONS

Complainant respectfully disagrees with some of Your Honors findings in the INITIAL DECISION. Complainant believes that they contradict the factual record. He also wishes to correct a mis-statement of fact contained in Your Honors INITIAL DECISION.

At page(pg)11, point(pt)30, under FINDINGS OF FACT, AND ON PG 23 under the ALJ ruling, it stated that, "...up to 3 times a month, where there is high volume of calls, the system shuts down." This is incorrect, and should read, "at least 4x a week, By GTL's own admission they observed that the problem took place every Tuesday, sometimes Wednesday, and holidays where you have a high volume of inmates using the phone, meaning that it was on average, at least 4, and upwards of 10-15 times per month, as I testified to.

Complainant next would ask this Commission to revisit its ruling denying his claim for refunds based, in part, on his failure to meet the 3rd prong established in Feigley v Verizon Select Services Inc, Docket No. C-20043261 (Order entered 4/24/2006), and overrule its prior precedent

Standard Fire Insurance Company v Insurance Dept, 611 A2d. 356, 359 (Pa. Cmwith 1992). By the letter of the law and in light of the record, this is necessary.

In support of this argument Mr Gibbs 1st asks this Commission to refer back to GTL Exhibit(s) (4)GTL Refund policy & (5) DC ADM 818, and note that neither policy categorically denies refunds for cell phones [(4)"dropped calls to cell phones will not be routinely refunded" and (5)"calls placed to cell phones, or phones of inferior quality may be automatically terminated due to static, adverse weather conditions, weak signals, or activation of the call-waiting feature. If this occurs, there will be no reimbursement. "]

In the instant matter, this is supposed to mean that when it comes to a cell phone, an investigatory step is part & parcel of the refund process, and not an arbitrary mechanism that can be selectively used upon the discretion of any employee as they see fit. So, according to DC-818 its not, "despite the policy not calling for refunds, Mr Fulton has granted refunds" (INITIAL DECISION, Findings of Fact pg. 11 pt. 25), but instead Complainant offers that it should've been, "In accordance with DC-ADM818 Mr Fulton has granted refunds." The former implies that GTL and their reps were going 'above and beyond' the scope of duty, and cell phone users should feel 'privileged' that some of their calls were investigated.

And based upon the established record, Ms. Kathy Tarkir, Ms. Dawn Allen, and Mr. Tom Fulton, all interpreted cell phone calls as the exception, and not the rule. This is where the problem lay. Some cell phone calls would get investigated, and most wouldn't, simply because they were cell phone calls. This is fatally flawed, because as supported by the established record, and included in You Honors Finding of Fact (INITIAL DECISION pg. 11 pt. 28), "A system problem affects both landlines & cell phones alike". Tr206(2). When this is viewed in conjunction with a shut-off problem due to volume of calls, that happens frequently (INITIAL DECISION, F of F pg. 9 pt. 7), the injury becomes clear; You have a problem that takes place routinely, which affects the entire 4,000 man population, doesn't discriminate between whatever type of phone the caller is on, but GTL doesn't routinely investigate, so how can the customer not find himself on the short end of the stick with this

formula? This was irresponsible, prejudicial, and could've been avoided if GTL and its subordinates would've followed the true definition of its own policy.

And for these reasons does Complainant ask that the 3rd prong of Feigley be relaxed and modified, and his claim be founded.

#### EXCEPTIONS TO REFUNDS

Complainant believes that based upon the record he has met his burden in proving that he is entitled to specific refunds, for the reasons that follow: On page 22 of Your Honors INITIAL DECISION ALJ ruling, it's noted that Your Honor cannot make findings in the determination of refunds based on documents not in the record (Mr Gibbs' calender). However, Mr Gibbs points to the record and asks Your Honor to reconsider the Commissions position. As noted in testimony, and acknowledged by Your Honor, the 6 Discrepancy Forms he provided, were only an example of some of the times he's complained about the phones, and as examples of GTL's responses. He offers that despite not submitting individualized Discrepancy Forms for each and every call that dropped (Sometimes after submitted forms never are returned, being lost in inmate mail, forced to be thrown away because of cell content rules within jail, etc), what is contained in the factual record can provide a starting point in determining a pro-rated amount refund, especially in light of the fact it was determined that GTL had a problem that affected thousands of inmates simultaneously, and ultimately cost us money each and every time it happened. From Mr Gibbs' Call-Log (GTL Exhibit 1) it can be determined exactly how much money he spent during a 2 year period. Roughly \$2,000. Also from the Call Log it can be determined that he used the phone multiple times daily (Finding Fact pg9 pt9). From the factual record it can be determined that at least 4 times per month where there was no holiday, and more during holiday months, the phones would shut off (INITIAL DECISION, F of F pg. 9 pt. 7, pg. 11, pts. 28, 30) because of a systemic problem. This would mean at a bare minimum, that the problem took place at least 48 times per year. Mr. Gibbs offers that this is enough of an established 'receipt' for Your Honor to calculate and render a monetary judgement in his favor.

**CIVIL PENALTY**

Complainant believes that the \$300 levied against GTL simply was not enough due to the magnitude of the infraction. What Your Honor labeled as "frustrating" to Mr Gibbs (INITIAL DECISION pg. 29), was just that and more, due to the amount of people affected by it, and by the financial rewards that GTL received because of it. At any given time there are over 4,000 inmates housed in Graterford who have phone privileges. And because of Graterfords logistical position that number frequently changes, as men housed here are shipped to different jails. So although its always around 4,000 men here, a large part of it is always a new percentage of men. And although it would be impossible to determine exactly how many men were affected by this problem, the record does shed light on the financial windfall that GTL received during this time. Ms. Dawn Allen testified that GTL completes some 100,000 inmate calls per month. TR 251. Thats 1 million calls per year on a system that overloads and crashes at least 4x a month (and always more) on cell phones and landlines alike, at \$1.60 per call, the pay out is significant. And for this reason does Complainant ask this Commission to increase the penalty levied against GTL.

Respectfully  
Tyrone Gibbs

**CERTIFICATE OF SERVICE**

I, Tyrone Gibbs, certify that on this date I served true and correct copies of Complainants Exceptions on the below named parties by 1st class mail, postage prepaid:

**Kevin B. Lefton, Esq.**

**Senior Council**

**GTL**

**12021 Sunset Hill Road, suite 100**

**Reston, Va 20190**

**Secretary**

**Pa PUC**

**P. O. Box 3265**

**Harrisburg, PA 17105-3265**

**Dated: December 18, 2014**

*Tyrone Gibbs*

Name: TYRONE GIBBS

Number: FS1093

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Hasler

12/19/2014

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