

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Vernon Robinson CB-3895

v.

Global Tel Link Corporation

Docket No.: C-2013-2343289

**POST-HEARING BRIEF IN
SUPPORT OF COMPLAINT**

I. BRIEF HISTORY

In December of 2012, Complainant (Robinson) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against Global Tel Link (GTL) alleging, *inter alia*, that there are reliability, safety or quality problems with the telephone service provided by Respondent. Respondent filed a one-page letter answer to the formal complaint dated January 31, 2013.

On April 3, 2013, a Prehearing Order was mailed to Complainant and Respondent scheduling an initial telephonic hearing for Wednesday, May 8, 2013 at 10:00 a.m. The hearing also encouraged "to cooperate in informal information exchanges and in conducting discovery." Robinson sent GTL requests for specific discovery before the scheduled date of the initial telephonic hearing, and GTL sent Robinson some discovery.

RECEIVED
2015 APR 13 AM 11:22
PA. P.U.C.
SECRETARY'S BUREAU

GTL requested that the hearing be rescheduled. On May 7, 2013, a Hearing Cancellation/Reschedule Notice was mailed to Robinson and GTL scheduling the initial telephonic hearing for Wednesday, June 26, 2013 at 10:00 a.m.

On June 26, 2013 the initial telephonic hearing convened as scheduled. At the hearing, Robinson sought to compel the production of certain discovery. The request was treated as an oral motion to compel and GTL was directed to file a written response to the motion within twenty days. Robinson also asked Your Honor about the ability to subpoena witnesses, and Your Honor informed Robinson that he could coordinate witnesses with GTL and they should make the witnesses available to testify. No testimony or evidence was entered into the record on June 26, 2013. The matter was continued. GTL filed an answer to Robinson's motion to compel requesting that the motion be denied. On October 11, 2013 Your Honor denied Robinson's motion to compel and scheduled the matter for further telephonic hearing.

On October 21, 2013 Robinson filed another Motion To Compel and a letter indicating what witnesses he would like to have testify. A Further Telephonic Hearing was scheduled Wednesday, June 11, 2014. During this hearing, Robinson's motions for a continuance and more discovery were denied. Testimony began in this hearing, and because of time constraints within the institution in which Robinson resides, the hearing had to be continued. A Further Telephonic Hearing was scheduled for Wednesday, February 25, 2015, in which testimony was given and the proceedings were concluded. Your Honor allowed the opposing parties to file their closing arguments through a brief.

II. CLOSING ARGUMENTS

GTL has continually employed practices that bolstered their profit lines tremendously while shortchanging their customer base, incarcerated persons who have no other option of

service. GTL probably initially saw the problems with their system as technical difficulties, but their willful neglect over such a long period of time turned technical difficulties into a practice that benefited GTL. GTL has used a few different defenses to rebut any liability on their part. But evidence given in this hearing refutes all of their defenses, and I will show that GTL's disregard for their customer base in order to enhance profits was almost, if not, criminal.

One of GTL's defenses is that the Pennsylvania Department Of Corrections (PA D.O.C) does not give refunds for calls to cell phones. GTL produced PA D.O.C policy to support that defense:

PA D.O.C—DC-ADM 818 Section B, Subsection 7

Warning: 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 for the call set-up fee that is incurred when the number is re-dialed. Likewise, if someone at the called number picks up an extension phone or the call waiting feature has been activated, the call may be automatically terminated, and you will not be reimbursed for the call set-up fee that will be incurred when the number is re-dialed.

There is no way in the world that this policy can be construed as an edict to never refund cell phone calls. There is no language that unwaveringly denies refunds to all call made by cell phones. This policy, in fact, does just the opposite. The policy gives a number of reasons for which a cell phone call may not be refunded. If reasons have to be listed as to why a refund won't be given, that's an indication that there are also reasons for which a cell phone call will be refunded. Conjecture aside, the policy states: "If this occurs, there will be no reimbursement for the call set-up fee that is incurred when the number is redialed." The main part of that quote is "If this occurs," which indicates that those if those conditions are met, then no refund is required. It is not an overall denial of refunds. So GTL's assertion that the PA D.O.C.'s policy doesn't allow refunds is not true.

Irregardless of GTL's misinterpretation of the PA D.O.C.'s policy there's another reason that GTL can't use that policy as a defense. GTL's Field Service Technician, Tom Fulton, testified that he is the only one allowed to give refunds. Mr. Thomas also explained that he has the power to trump PA D.O.C.'s policy against cell phones, and he had, in fact, done so before. This indicates that Thomas Fulton, a GTL employee, has the last word on whether a refund is given. So while PA D.O.C.'s policy could be a guide, it is not the governing authority when it applies to refunds. Actually, Mr. Fulton testified to this fact himself.

GTL also claims that they are not always made aware of problems that arise at the institution. GTL asserts that some complaints and problems are handled by the on-site coordinator and GTL never hears about them. But there are multiple instances that prove GTL was made aware of the problems some time ago. Whether they cared or not to fix them was another thing.

Robinson testified that he filed a Telephone Discrepancy Form in December of 2010. Robinson testified that he related "in detail about the problems that plagued the phones." Robinson also testified that he was given a refund for that call and the Telephone Discrepancy Form was admitted into evidence. The key to this is that Robinson was given a refund, and only Thomas Fulton can administer refunds; therefore, after reading this detailed telephone discrepancy form, Thomas Fulton was made aware of a possible problem at the institution as early as December 2010. He had to perceive there was a problem because he gave refund. But Thomas Fulton was not the only one made aware of the possibility of a persistent problem.

I want to digress for just a minute before it is contested that a problem even existed. GTL's Field Service Technician, Thomas Fulton, testified that they fixed a major problem in

March of 2014. He explained that they realized there was a lot of traffic on the phones on the days the monies were credited to inmates' accounts. Mr. Thomas Fulton also said they had to open up more trunk lines to accommodate the phone usage. This sound like the same problem Robinson continually complained about since as early as 2010.

But back to who else at GTL knew about the problem. Robinson filed his complaint in December of 2012. GTL filed a one-page letter answer to the formal complaint in January of 2013. GTL had to have figured that a formal complaint being filed was caused by a problem. At the least, the complaint should have been investigated at that time. But GTL was put on notice about the possibility of a problem.

Since the Commission encourages settlements, GTL's attorney reached out to Robinson a few times and they spoke over the phone in an attempt to settle the complaint. March 29, 2013 Robinson and GTL made an attempt to settle the complaint. This attempt was mediated by the Commission's mediator, Mr. Herbert Nurick. At this point, with GTL's lawyer involved, GTL was made aware, again, of the possibility of a persistent problem.

April 2, 2013, a Prehearing Order for May 8, 2013 was sent to Robinson and GTL for the PA Public Utility Commission. The service list indicated that the Order was sent to Robinson and Kathi Tarkir, GTL's complaint analyst. With the complaint analyst receiving the order, it seems that she would surely consider that the complaint could possibly have some validity and investigate. But she was made aware of the possibility of a problem.

The May 8, 2013 hearing was postponed until June 26, 2013. That hearing was a short hearing to settle issues concerning discovery and witnesses. A few briefs were filed concerning discovery and some discovery was exchanged in the following months, all in 2013. GTL was surely made aware of the possibility of a persistent problem, and the awareness wasn't exclusive

to Thomas Fulton, Kathi Tarkir, or GTL's lawyer. I would like to note that Thomas Fulton admitted that he did testify in other hearing within the Commission that did not involve Robinson's case but others complaining about the same issues. With multiple complaints about the same issue, GTL surely knew about the problem.

GTL was alerted to a possible problem as early as 2010, at the least. Those alerts came multiple times after that, and GTL didn't decide to act until March of 2014, under the threat of multiple complaints. They clearly neglected to do their job and follow their protocols. But GTL can't claim that the PA D.O.C. or the on-site coordinator's lack of communication left them unaware. The evidence proves that they were made well aware of the ongoing problems. From the year 2010 to 2014 far exceeds the 2-week period that Thomas Fulton said was more than enough time.

GTL's major defense is that they don't pay refunds for cell phone calls. While they use the PA D.O.C.'s (misinterpreted) denial of cell phone refunds as an initial response, they also say they have a policy of not refunding cell phone calls. GTL probably believes that *Feigley v. Verizon Select Services, Inc.*, Docket No. C-20043621, (Order issued April 24, 2006) ("Feigley") cements their position. Let me explain how their reasoning is flawed.

The service provider's mere reliance on the fact that the AITS, or similar technology, "interprets" and codes relatively normal activity on the subscribers' line or the use of common telephony on the line as an improper three-way call attempt and results in automatic disconnection, is insufficient. *Feigley* at 23.

The Commission also notes "that the use of a cordless telephone, admittedly, could occasion a disruption. We are not confident that the use of a cordless telephone can be indefinitely sustained as a disconnection trigger in light of the widespread use of this telephony." *Feigley* at 24.

As the Commission stated, cordless phones—which can be likened to cell phones—could occasion a disruption. But this is not always the case. The basis of *Feigley*'s 3rd prong is because of the possibility of cell phone disruption. In *Feigley*, the Commission felt that the Feigleys did not meet “their burden of proof that the disconnections suffered were not attributable to any action on their part.” *Feigley* at 24. That statement alone implies that had the Feigleys shown that they weren't at fault, the decision could have been different. By a preponderance of the evidence, I can clearly show that I wasn't at fault.

GTL admitted 3 telephone calls that were attributed to Robinson into evidence. Two of the phone calls were ended prematurely. The first call was made 8/6/13 at 8:14 p.m. Thomas Fulton testified that in his opinion, the parties were connected but they couldn't hear each other. He also testified that he couldn't draw a distinction as to why it happened and he didn't know the technical reason for the disruption. But he deemed that call worth of a refund, especially since it was a landline.

The second call was made 8/6/13 at 8:25 p.m., directly after the disrupted call before it. Thomas Fulton testified that he listened to some of the conversation to decipher if there was a problem with the previous call. He decided that a refund was in order for the previous call, but he could specify what the problem was and he saw no need to investigate.

The third call was made 8/6/13 at 8:41 p.m. After listening to the call, Thomas Fulton surmised that the call was dropped before the parties desired, and he attributed the distortion to cell phone reception. But when cross-examined, he gave some interesting answers. Under cross-examination, Thomas Fulton explained the disruption as a “fast busy tone.” He also said it was impossible to tell if it was his system that disconnected. Mr. Fulton did concede that if cell phone calls were to drop, the line would be severed completely. He agreed that wasn't the case with this

call since you could clearly wasn't the fault of the party whom Robinson called. Mr. Thomas was then asked whether he knew that he gave a refund for that call, a cell phone call.

These were two instances that clearly were not the fault of the inmate or his called party, and Thomas Fulton testified to that fact. One was a landline and one was a cell phone. Refunds were given for each. The refunds are not the question at this point because they came too infrequently when compared to the amount of times they were actually required. The focus should be on the problems that occurred during those two calls; the same types of problems Robinson complained about for quite some time; the same problems that Robinson testified about seeing affect him and other inmates over a long period of time; and the same problems that were proven to affect landline and cell phones alike, at no fault of those landlines or cell phones.

If Robinson had been in the Feigley's position, the burden of proof to demonstrate disconnections were not attributable to him or his loved ones would have been satisfied. Mr. Thomas Fulton helped with that. Robinson's testimony concerning what he was and endured hasn't been contested. Actually, Thomas Fulton's testimony supports all of Robinson's accusations. GTL played some phone calls that supported Robinson's position and Mr. Thomas confirmed that Robinson and Robinson's called party weren't at fault. Mr. Thomas also testified that they realized there were problems because of overloaded trunks. Mr. Thomas encountered *problems, couldn't decipher the reasons of those problems, gave limited refunds, and felt there was no need to investigate.* That was either incompetence or intention. Either way, Robinson and others were cheated out of what they paid for.

So I hope that *Feigley* is used as it was intended by the Commission, with the totality of the circumstances. There's no way that a faulty system or neglectful service should be the cause of the ostracization of cell phones, especially in light of cell phones in this day and age.

III. CONCLUSION

The evidence shows that GTL knew, for quite some time, that there were problems with their system. GTL should be held accountable for their willful neglect.

Respectfully submitted,



Vernon Robinson CB-3895

Date: April 9, 2015

RECEIVED
2015 APR 13 AM 11:22
PA.P.U.C.
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

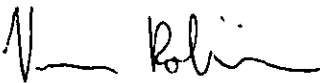
I, Vernon Robinson CB-3895, certify that on this date, I served a true and correct copy of Complainant Vernon Robinson's Post-Hearing Brief In Support Of Complaint upon the parties named below in accordance with 52 Pa. Code § 1.54:

Via regular mail:

Hon. Mark A. Hoyer, ALJ
PA Public Utility Commission
301 Fifth Ave.
Suite 220, Piatt Place
Pittsburgh, PA 15222

Edward G. Lanza, Esquire
The Lanza Firm LLC
P.O. Box 61336
Harrisburg, PA 17106-1336

Rosemary Chiavette, Secretary
Pennsylvania Public Utility Commission
Secretary's Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265


Vernon Robinson CB-3895
Complainant

Dated: April 9, 2015

RECEIVED
2015 APR 13 AM 11:22
PA P.U.C.
SECRETARY'S BUREAU

Vernon Robinson CB-3895

P.O. Box 244

Graterford, PA 19426

Rosemary Chiavetta, Secretary

Pa. Public Utility Commission

Secretary's Bureau

P.O. Box 3265

Harrisburg, PA 17105-3265