

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
2015 OCT 19 PM 1:52
PA.P.U.C.
SECRETARY'S BUREAU

Vernon Robinson CB-3895

v.

Global Tel Link Corporation

Docket No.: C-2013-2343289

EXCEPTIONS OF COMPLAINANT

I. INTRODUCTION

Pursuant to Section 5.533 of the Commission's regulations at 52 Pa. Code §5.533, Complainant Vernon Robinson ("Complainant") hereby respectfully submits these Exceptions in response to the Initial Decision ("I.D.") of Administrative Law Judge Mark A. Hoyer (ALJ), issued August 20, 2015.

II. EXCEPTIONS

1. The ALJ Erred in His Interpretation of DOC Policy.

The ALJ made a gross misinterpretation in his Finding Of Fact #25 (I.D. at 7). The ALJ asserted that "The DOC policy (DC-ADM 818) is that there will be no refunds provided for dropped calls made to cell phones, or for calls automatically terminated when three-way calling, call forwarding, or calls picked up at an extension are detected (GTL Ex. A)." This is also a

position that the Respondent, Global Tel Link (“GTL”), propagated throughout the entire presentation of their case.¹

No evidence was presented by Complainant or GTL that indicates that the DOC had declared that they would not issue refunds for calls made to cell phones. In fact, GTL’s Ex. A says something different:

“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** [emphasis added] there will be no reimbursement for the call set-up fee that is incurred when the number is redialed.”

That policy stipulates four reasons that a call to a cell phone may be terminated. The three key words “If this occurs” indicate that if one of those four stipulations take place, then a cell phone call will not be reimbursed. There is no notification in that directive that steadfastly denies refunds to all cell phone calls; also, this directive does not cover for overloaded GTL trunk lines.

This is important because blaming the DOC’s policy for a lack of refunds absolves GTL of much of the liability.

It must be noted that all discrepancies are initially investigated by Dawn Allen, the site administrator at Graterford; and she was employed by Shawntech Communications, which was a subcontractor of GTL (Findings Of Fact #15 & #16, I.D. at 6). “Dawn Allen made the decision whether to forward the issue raised in a discrepancy to GTL for further investigation and possible refund approval” (Findings Of Fact #18, I.D. at 6); therefore, with Dawn Allen being an employee of GTL, GTL made the ultimate decision about who would receive refunds.

¹ Complainant is unable to provide direct references in the transcripts because Complainant was unable to afford transcripts because of his indigence. ALJ Mark A. Hoyer allowed Complainant some leeway in the filing of his briefs since indigence and incarceration hinder Complainant’s ability to afford transcripts.

2. ALJ Was Incorrect in Considering GTL's Ex.B As The Sole Evidence of Disconnected Calls Involving Complainant.

The ALJ used a table generated by GTL to support his Findings Of Fact #27 (I.D. at 8). This table influenced the ALJ's Findings Of Fact in #28-#34 and the amount of refunds Complainant was entitled to (I.D. at 15). Using this table not only robs the Complainant of his entitlement, but it is also misleading.

Complainant submitted two pieces of evidence that enlighten the Court about more calls that are not on the table. Complainant's Exhibits 1 and 2 (TR. 210) are two forms that indicate phone calls made as early as March 2010.

The importance of recognizing these calls is twofold. First of all, the March 10, 2010 form clearly indicates that Complainant had four disconnected phone calls in a very short span. If these calls were tallied up, it would add to the Complainant's refund.²

The Complainant's exhibits also widen the timeframe of GTL's violations. If GTL's Exh. B and GTL's table from their main brief are the only evidence relied on, it would seem as if their violations began in late 2012. But Complainant testified to problems as early as March of 2010. Again, the ALJ's omission of Complainant's Exh. 1 & 2 from his Findings Of Facts unfairly limits the Complainant's refunds and the scope of GTL's violations.

3. The ALJ's Refusal to Penalize GTL Is Not Supported by Factors and Standards Set Forth in 52 Pa. Code § 69.1201(c) When Coupled With The Evidence.

The ALJ stated that the Complainant met his burden of proof that GTL's service was in violation of Section 1501 of the Code; the ALJ also explained that a telecommunications

² GTL claims that this was an "Inmate Request To Staff Member" form and not a Telephone Discrepancy form. While this is true, the Commission can see that this form is addressed to the Telephone Coordinator, who is employed, via subcontractor, by GTL.

provider can be penalized for providing inadequate and/or unreasonable service (Conclusions Of Law #11 & #12, I.D. at 20). Even with those assertions, the ALJ concluded that no penalty was required because GTL had been penalized in a previous case. Before Complainant demonstrates why the standards in 52 Pa. Code warrant a penalty, Complainant would like to point out an additional argument that will bolster his position.

Complainant did not file a joint complaint. This was an individual complaint brought by an individual party that exposed conditions that affected a large class of people. *Tyrone Gibbs, FS-7093 v. Global Tel Link Corp.*, Docket No. C-2013-2358084 (“Gibbs”) brought forth similar issues but with differing facts. Complainant’s case and *Gibbs* were filed individually and were treated as such. Even though ALJ Melillo informed the Commission that she was presiding over a similar case (I.D. at 18), there was no consolidation of Findings Of Facts from the two cases. Since the Complainant was not afforded the luxury of *Gibbs*’ Findings Of Fact, which would have bolstered and benefited Complainant’s case, GTL should not be afforded the luxury of two cases consolidated into one for purposes of penalization, which clearly benefits GTL.

The decision not to penalize GTL will set a dangerous precedent. GTL could use this ruling to request that no penalties be applicable to them because of previous penalties; thereby, absolving GTL from future penalties.

Listed below are factors and standards from 52 Pa. Code § 69.1201(c) that Complainant will use to show that when coupled with the evidence, that GTL should be penalized:

- (1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.
- (2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such

as personal injury or property damage, the consequences may warrant a higher penalty.

- (4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.
- (5) The number of customers affected and the duration of the violation.
- (8) *The amount of the civil penalty or fine necessary to deter future violations.* The size of the utility may be considered to determine an appropriate penalty amount.

In respect to the first (1) criterion, the conduct has to be considered of a serious nature. The ALJ stated that the Complainant testified credibly, and the problems he experienced were GTL telephone system related (I.D. at 16). While Complainant says problems went on for some time, his documentation (Complainant's Ex. 1) begins as early as March 2010, which was a sign of alert to a problem. Complainant's Formal Complaint was filed in December of 2012, and Thomas Fulton once talked to a lieutenant at Graterford about telephone service issues (TR. 147-149); so all factors point to GTL being informed but failing to fix the problem because the problem benefited them. Furthermore, the fact that GTL continually blames DOC policy for lack of refunds—when a GTL employee, via subcontractor, is the first in line to troubleshoot—instead of fixing the GTL telephone system-related problems has to be considered willful fraud.

In respect to the second (2) criterion, the consequences were of a serious nature. *This constant problem accrued many personal injuries over its time. The loss of monies was tremendous.* GTL made no effort, at all, to assuage these personal injuries. Most companies issue a recall, or an alert, when they find out their product is faulty, giving

consumers an opportunity to recoup the loss from a faulty product or service. GTL has been made aware—twice through *Gibbs* and Complainant's I.D.—that their problems were GTL telephone system related. GTL has yet to offer anyone the chance to recoup their losses. GTL denied many Telephone Discrepancies on the basis of cell phone usage, and they have yet to reimburse all of those denials after they were told their own telephone system was the culprit. Matter of fact, even after the Commission's decision in *Gibbs* in June of 2015, GTL still didn't acquiesce to Complainant. Instead of acknowledging fault, they continued on with the case. Therefore, the personal injury is far-reaching, and this has to be considered of a serious nature.

In respect to the fourth (4) criterion, GTL seems to have only made efforts to fix their system after the persistence of Complainant and the Complainant in the *Gibbs* case. Complainant explained, in detail, a problem to GTL as early as March 2010 (Complainant's Ex. 1). Complainant filed a Formal Complaint in December 2012. In April 2013 the *Gibbs* case was filed. After all of those alerts, GTL did not fix the problem until impending hearing for Complainant and the Complainant in *Gibbs*. You could go back as far as Complainant's March 10, 2010 request for assistance or you could even limit it to Complainant's filing of a Formal Complaint, but from December of 2012 to March of 2014 is a long time to leave a problem that pilfers the consumers' pockets while bolstering the corporations' profits.

In respect to the fifth (5) criterion, the duration of the violation has been laid out earlier. Thomas Fulton testified that the trunk problem had to be fixed on the 130 phones in the institution. Depending on how many times the problem occurs within a given week, 130 customers could be affected each time.

In respect to the eighth (8) criterion, the size of the utility must be considered. In *Gibbs*, ALJ Melillo recommended that a \$300 penalty was sufficient, although it was noted that ALJ Melillo was not certain of the size of GTL (*Gibbs* at 50). GTL is one of two companies who own 80% of the prison phone call market. In a \$1.2 billion dollar-a-year industry, \$300 is a paltry sum to deter future violations. Even if the size of the company is not known, \$300 doesn't seem to be much of a penalty to a solvent corporation.

III. CONCLUSION

Based on the foregoing, the Complainant's Exceptions should be accepted and affirmed by the Commission.

Respectfully Submitted



Vernon Robinson CB-3895

Date: October 14, 2015

CERTIFICATE OF SERVICE

I, Vernon Robinson, certify that on this date, I served a true and correct copy of Exceptions Of Complainant upon the parties named below in accordance with 52 Pa. Code § 1.54.

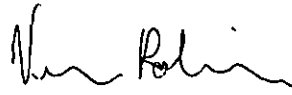
Via regular mail:

Edward G. Lanza, Esq.
THE LANZA FIRM, LLC
P.O. Box 61336
Harrisburg, PA 17106-1336

Kevin B. Lefton, Esq.
Senior Counsel
Global Tel Link Corporation
12021 Sunset Hill Road, Suite 100
Reston, VA 20190

Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
2015 OCT 19 PM 1:52
PA P.U.C.
SECRETARY'S BUREAU


Vernon Robinson CB-3895
Complainant

Date: October 14, 2015

Vernon Robinson CB-3895

P.O. Box 244

Graterford, PA 19426

PA. PUBLIC UTILITY COMMISSION
HARRISBURG, PA.

2010
11 16 2010
10 10 10
100

Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265