

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Vernon Robinson CB-3895

v.

Docket No. C-2013-2343289

Global Tel\*Link Corporation

**REPLY EXCEPTIONS OF RESPONDENT  
GLOBAL TEL\*LINK CORPORATION**

**I. INTRODUCTION**

Pursuant to Section 5.535 of the Commission’s regulations at 52 Pa. Code §5.535, Respondent Global Tel\*Link Corporation (“GTL”) hereby respectfully submits these Reply Exceptions in response to Exceptions of Complainant filed with the Commission on or about October 19, 2015.

The Complainant identified several issues that are addressed in his Exceptions. First, he argues that the Presiding Officer misinterpreted the Department of Corrections (“DOC”) policy that denies refunds for calls made to cell phones. Next, Mr. Robinson claims that the Presiding Officer improperly relied on a GTL exhibit listing allegedly disconnected calls to make a finding regarding refunds. Lastly, Complainant maintains that Administrative Law Judge Mark A. Hoyer (“ALJ”) erred in deciding that a penalty against GTL was not warranted by the facts of the case. Respondent respectfully submits that the Exceptions filed by the Complainant lack merit and should be denied. The Commission should affirm and adopt the findings in ALJ Hoyer in his Initial Decision in this matter. In support of its Reply Exceptions, GTL submits the following.

## II. REPLY EXCEPTIONS

### 1. The ALJ's Interpretation of the DOC Phone Policy Is Reasonable and Supported by the Evidence

Complainant claims that the Presiding Officer made “a gross misinterpretation” of DOC Policy DC-ADM 818 (GTL Exh. A) because he found that the policy authorizes the denial of refunds for dropped calls made to cell phones. Exceptions at 1. Mr. Robinson argues that there is no evidence of record that “DOC had declared that they would not issue refunds for calls made to cell phones.” Exceptions at 2. He seems to be arguing that there was no absolute DOC mandate to deny refunds for dropped calls to cell phones, and that instead, refund denials under these circumstances were somehow optional or discretionary. Even if Complainant’s argument is accepted without question, which GTL does not, ALJ Hoyer was still correct in finding that, under the DOC policy, “there will be no refunds provided for dropped calls made to cell phones.” ID at 7.

Complainant is incorrect in stating that there is no evidence showing that DOC had a policy of denying refunds for dropped inmate calls made to cell phones. DOC Policy DC-ADM 818 is very clear in warning inmates that if they make a call to a cell phone, and that call is terminated due to some problem with the call, “there will be no reimbursement.” GTL Exh. A. Mr. Robinson emphasizes the language in the policy that states that a call “may be automatically terminated” and the phrase “if this occurs” to argue that *only if* there is “static, adverse weather conditions, weak signals, or activation of the call waiting feature” will the refund be denied. This is a fallacious and misguided reading of the policy. The phrase “if this occurs” refers to the call being terminated, not the “four stipulations” that Complainant focuses on, which deal with possible causes for the automatic termination of a call to a mobile phone. In other words, the reimbursement will be denied, under the policy, if the call to a cell phone is terminated

(dropped). The Complainant is correct that the policy does not say that refunds will be denied to “all cell phone calls” because the refund will be denied only if the cell phone call is dropped. However, the policy is clear that “there will be no reimbursement” for dropped calls made to cell phones, which is what ALJ Hoyer found in his Initial Decision. The finding is correct and based on the evidence, and as such, should be upheld by the Commission.

Complainant also argues that the DOC policy does not cover refunds for overloaded GTL trunk lines, and that blaming the denial of refunds on the DOC policy absolves GTL of much of their “liability.” Exceptions at 2. Complainant’s claims in this regard are misplaced, inaccurate and misleading. GTL has not argued that the DOC policy mandated the denial of refunds in every case. In fact, GTL argued that although company personnel relies on the DOC policy, GTL has the discretion to issue credits to an inmate’s account, even where the DOC policy would permit denial of a refund. *See*, GTL Main Brief at 2. Thus, even though DOC policy provides that inmates are not entitled to refunds for dropped calls to cell phones, GTL investigated and made its own determinations regarding calls to cell phones and landlines. Where a refund was warranted, GTL issued a credit to Mr. Robinson. In other words, Mr. Robinson has received credits even in cases where he was not entitled to refunds. *See*, GTL Main Brief at 10-11. So, Complainant’s argument that the DOC policy somehow absolved GTL from issuing refunds or was used as a pretext to deny refunds is unsupported and erroneous.

Complainant is also confused about who made the decisions to issue refunds. He attempts to argue that GTL made all the decision to deny refunds by saying that Dawn Allen (whom he claims is an employee of GTL) made the ultimate decision about who would receive refunds. Exceptions at 2. This claim is contradicted by the record in this case. First, some inmate complaints never made it to GTL because they were handled by DOC personnel

according to DOC policies. TR. 37, GTL Main Brief at 8. When an inmate submits a discrepancy form, the form is handled by a phone coordinator at the facility (Ms. Allen), who is a subcontractor to GTL (not an employee). TR 127, GTL Main Brief at 2. The authority and discretion to issue refunds rests with GTL (not its subcontractor). *See*, Findings of Fact #15-24. GTL Main Brief at 2. This distinction is important because Mr. Robinson holds GTL responsible for all denials of refunds, even when some of the refund requests were denied by DOC based on the department's own policy. To the extent that GTL was made aware of phone issues that warranted refunds, the Company reviewed each instance and issued refunds where it was appropriate. More specifically, GTL issued credits to Mr. Robinson even where the cause of the disconnection could not be determined. GTL Main Brief at 3. Based on the above, it is plain to see that ALJ Hoyer was correct in his interpretation of the DOC policy and his decision should stand.

2. The ALJ Correctly Relied on the Evidence Presented Regarding Disconnected Calls to Reach His Conclusions

Complainant mistakenly claims that the Presiding Officer used a table referenced in Finding of Fact #27, (and incorrectly identified by Mr. Robinson as GTL's Exhibit B) as the sole evidence of disconnected calls involving Complainant. Exceptions at 3. A fair reading of the Initial Decision in this matter demonstrates that ALJ Hoyer reviewed the entire record to ascertain the validity of Complainant's claims regarding refunds for disconnected calls. The table referenced by Complainant and reproduced by ALJ Hoyer in Finding of Fact #27 is a summary of disconnected calls. Exhibit B is a 126-page comprehensive log of all the calls made by Mr. Robinson from 2012 to June 2014, just prior to the hearing in this matter. Because Exhibit B contains the entire list of all calls attempted by Mr. Robinson, including unanswered

calls and calls that were completed, it makes sense that a summary of disconnected call (the basis of the dispute) would be more useful and relevant than a full call log spanning three (3) years (Exhibit B). There is nothing wrong with ALJ Hoyer focusing on calls that were disconnected before the expiration of the full 15-minutes allotted for inmate calls. This is especially appropriate because the summary is based on Mr. Robinson's own testimony about the dropped calls (TR 220-240) and other evidence presented at the hearing in this matter (GTL Exhibit B).

The Complainant's concern that focusing on the summary of disconnected calls somehow limits his refunds and the scope of the alleged "violations" is misplaced and does not warrant a reversal of ALJ Hoyer's Initial Decision. First, Exhibit 1, the Inmate's Request to Staff Member never reached GTL for a decision regarding a refund or credit. As noted in the exhibit, the request went to the Graterford SCI staff and was denied "per DOC policy." Complainant's Exhibit 1. GTL had nothing to do with this denial of a credit and the Company should not be held responsible for the perceived impropriety of the DOC's refund denial, as argued by Complainant. Secondly, the December 16, 2010 call that disconnected and led to a legitimate Discrepancy Form resulted in a \$1.69 refund by GTL to Mr. Robinson. Complainant's Exhibit 2. Thus, these two exhibits do not support a finding for a refund by GTL because, in one instance, a request for a refund was not made to GTL, and in the second, a refund was issued by GTL. The Presiding Office was right to focus on disconnected calls of which GTL was aware and for which a refund request was made to the Company.

3. The ALJ Correctly Decided that a Civil Penalty Was Not Appropriate in this Case

Complainant objects to the Presiding Officer's decision to not penalize GTL for the violations found in the Initial Decision. Exceptions at 3-4. Mr. Robinson claims that the fact that GTL has already been penalized for the same violations in another matter should not prevent

the Commission from imposing a duplicative penalty on the Company. *Id.* He argues that this is not a joint filing or a consolidated matter, and as such, the penalty imposed in another case should have no bearing in the instant matter. *Id.* at 4. These claims are specious and should be rejected by the Commission.

Initially, ALJ Hoyer is correct to point out that the violations claimed by Mr. Robinson in this matter are substantially the same alleged in the matter of *Gibbs v. GTL*, Docket No. C-2013-2358084. The Complainants in both cases made similar allegations of disconnections and failures to refund at around the same time period at the same correctional institution. Further, it is entirely appropriate for ALJ Hoyer to take into consideration the extent to which the Company has been penalized for “the very same system failure” at the same correctional facility identified by ALJ Melillo in the Gibbs case. I.D. at 17. GTL respectfully submits that it would be improper to impose a duplicative penalty, and that such a penalty would be excessive. *Bernstein and Bernstein, P.C. v. Duquesne Light Company*, Docket No. C-892646, 1992 Pa. PUC LEXIS 63 (Order issued May 21, 1992) (holding that excessive penalties be reduced). It should be noted that Judge Melillo conducted a thorough examination of all the factors used by the Commission to decide whether to impose a penalty in the Gibbs case, and that review led to the imposition of a modest penalty based on GTL’s efforts to identify and correct service issues at Graterford. Judge Melillo was simply concerned with the amount of time that elapsed between the first complaints of the service problems at Graterford and the ultimate fix to those issues. *Gibbs v. GTL*, Docket No. C-2013-2358084, 2014 Pa. PUC LEXIS 609 (Initial Decision issued November 18, 2014) at 56-57. The decision of ALJ Hoyer to not impose a duplicative penalty was appropriate and should not be disturbed.

Lastly, it is important to point out that Mr. Robinson did not advocate for a civil penalty of any size in his Brief and Reply Brief. The Complainant's attempt at this late hour to go through the criteria in the Commission's regulations, 52 Pa. Code § 69.1201, should be ignored and rejected. The time to argue for the imposition of a penalty was at the briefing stage. Complainant should not be permitted to raise new issues, such as penalties, at the Exception stage of the proceeding.

### **III. CONCLUSION**

Based on the foregoing, the Complainant's Exceptions should be rejected and the Initial Decision of Administrative Law Judge Mark Hoyer should be affirmed and adopted by the Commission.

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Date: October 30, 2015

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Edward G. Lanza, certify that on this date, I served a true and correct copy of Respondent Global Tel\*Link Corporation's Reply Exceptions upon the parties named below in accordance with 52 Pa. Code § 1.54:

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