

DOCKET

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Sandra and George Feigley

v.

C-20043621

Verizon Select Services, Inc., and
Department of Corrections by
Robert Shannon

**DOCUMENT
FOLDER**

DOCKETED
APR 19 2005

PREHEARING ORDER NO. 1

An Initial Video Conference Hearing in this case is scheduled for Friday, May 6, 2005 at 9:00 a.m. You must be available when contacted by the presiding officer or your case will be dismissed. If you or your proposed witnesses will be at a video conference center that is different than the prearranged locations at State Correctional Institute Frackville PA, Room 812 Health and Welfare Building, Harrisburg PA or Verizon Select Services, Inc. Offices, Dallas TX, you must notify me of that telephone number at least five (5) business days before the hearing.

The parties are hereby directed to comply with the following requirements:

1. A request for a change of the scheduled hearing date must state the agreement or opposition of other parties, and must be submitted in writing no later than five (5) business days prior to the hearing. 52 Pa. Code §1.15(b). Requests for changes of hearing dates must be sent to me and all parties of record. The correct address is: Louis G Cocheres, Administrative Law Judge, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. For your convenience, a copy of the Commission's

STL

current service list of the parties to this proceeding is enclosed with this Order. **Changes are granted only in rare situations where good cause exists.**

2. **Commission policy promotes settlements. 52 Pa. Code §5.231(a).** The utility will contact the customer at least one week before the scheduled hearing to talk over a possible settlement of this case. Even if you are unable to settle this case, you may still resolve many questions or issues during your talks. If an agreement is reached, a formal hearing will not be necessary and the scheduled hearing will be cancelled.

3. If you or your witnesses intend to present any documents or exhibits for my consideration, you and/or your witnesses must send one copy to the other parties and three (3) copies to me at least five (5) business days before the hearing. Proposed exhibits should be properly pre-marked for identification purposes.

4. Although the hearing is being conducted telephonically for the convenience of the parties, it is still a formal proceeding and will be conducted in accordance with the Commission's Rules of Practice and Procedures.

5. Pursuant to 52 Pa. Code §§1.21 & 1.22, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you. However, if you are a partnership, corporation, trust, association, or governmental agency or subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall insure that their appearance is entered in accordance with the provisions of 52 Pa. Code §1.24(b).

6. If you intend to subpoena witnesses for the hearing, you should review the procedures established in 52 Pa. Code §5.421. You must submit your written

application to the Administrative Law Judge sufficiently in advance of the hearing date so that the other parties will have the required ten (10) days' notice to answer or object, and so that you will have enough time to receive the subpoena and serve it.

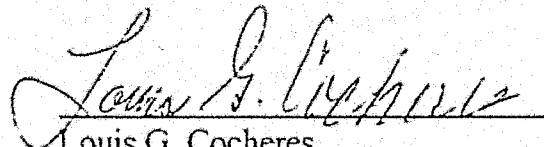
7. The Complainant is responsible for payment of current bills pending the resolution of this complaint. 52 Pa. Code § 56.181. Failure to make payments may result in the termination of utility service.

8. **YOU MAY LOSE THIS CASE IF YOU DO NOT TAKE PART IN THIS HEARING AND PRESENT EVIDENCE ON THE ISSUES RAISED.**

9. The Complainants bear the burden of proof in this proceeding and must show by a preponderance of the evidence that the respondent has violated the Public Utility Code or a regulation or an Order of this Commission so that the Complainants are entitled to the relief requested in the Complaint.

10. Any party may conduct discovery to learn the factual basis of another party's position in this case. However, 52 Pa. Code §5.331(b) provides, in relevant part, that "[a] participant shall endeavor to initiate discovery as early in the proceedings as reasonably possible." Additionally, 52 Pa. Code §5.322 provides, in relevant part, that "participants are encouraged to exchange information on an informal basis." All parties are urged to cooperate in informal information exchanges and in conducting discovery. Cooperation is preferable to disagreements, which require my participation to resolve. There are limitations on discovery (52 Pa. Code §5.361) and sanctions for abuse of the discovery process (52 Pa. Code §§5.371 & 5.372).

Dated: March 31, 2005


Louis G. Cocheres
Administrative Law Judge



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Office of Administrative Law Judge
P.O. BOX 3265, HARRISBURG, PA 17105-3265
April 6, 2005

IN REPLY PLEASE
REFER TO OUR FILE

In Re: C-20043621

(SEE ATTACHED LIST)

Sandra and George Feigley v. Verizon Select Services, Inc.

Service Dispute

**DOCUMENT
FOLDER**

CORRECTED Hearing Notice

This is to inform you that the notice dated February 3, 2005 on the above-captioned case contained incorrect information. The purpose of this notice is to correct that information. All corrections will be double underlined.

Type: Initial In-Person Telephonic / Video Conference Hearing

Date: Friday, May 6, 2005

Time: 9:00 a.m.

Location: Health & Welfare Building
7th & Forster Streets
Room 812
Harrisburg, Pennsylvania

Presiding: Administrative Law Judge Louis G. Cocheres
P.O. Box 3265
Harrisburg, PA 17105-3265
Telephone: (717) 783-5452
Fax: (717) 787-0481

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MAY 07 2005

BTE

At the above date and time, the Presiding Officer will contact the following parties:

George Feigley
Bruce Kazee, Esquire

570-874-4516
972-718-5331

ALL OTHER PARTIES ARE TO APPEAR IN PERSON

Attention: You may lose the case if you do not come to this hearing and present facts on the issues raised.

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

Individuals representing themselves do not need to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) must be represented by an attorney. An attorney representing you should file a Notice of Appearance before the scheduled hearing date.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Cocheres
Cherie Pyle, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

ORIGINAL

Before The Pennsylvania
Public Utility Commission

2004-03-02

Sandra and George Feigley :
Complainants :
v :
Verizon Select Services, Inc. :
and Department of Corrections :
by Robert Shannon :
Respondents :

SEC. 101 :
Number 2004 3621

DOCKETED
JUN 2, 2005

Feigleys' Brief in Reply to
Respondents' Objectionsto (sic) Motion for Subpoenas and
Objections to Issuannce (sic) of Subpoenas

Background

On or about 11 March 2004 the Complainants, Sandra Feigley (hereinafter "Mrs. Feigley"), a telephone subscriber and her imprisoned husband, George Feigley (hereinafter "Mr. Feigley"), submitted a "Motion for Subpoenas Pursuant to 52 PaCode 5.421" and served the same upon the Respondents' counsels. On or about 25 March 2005 George Feigley received Verizon Select Services Inc.'s Objection to Issuannce (sic) of Subpoenas of Sandra and George Feigley. Mrs. Feigley was served a few days later.

On or about 28 March 2005 Mrs. Feigley was served with Pennsylvania Department of Corrections' Objectionsto (sic) Motion for Subpoenas. Mr. Feigley was not served and only belatedly received a copy from his wife. Both documents make allegations of fact not of the record. Neither document is verified. The Complainants have moved to have the Department of Corrections' (hereinafter "DOC") document stricken.

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Argument:

The DOC's objection makes allegations of fact which are not of the record. The allegations are in direct contradiction to allegations made by the Complainants. Such issues of fact are properly left to be proved at the hearing.

DOC avers that it's not a public utility and not an appropriate party. After testimony, the Complainants believe that they will prove that the DOC by Robert Shannon falls within the legal definition of a public utility and that the Commission has jurisdiction over Robert Shannon in his personal capacity.

DOC asserts that how Ms Ashelman "handles the various aspects of her position are not relevant matters of concern to [the] Feigleys nor are they subject to the jurisdiction and authority of the Public Utility Commission." DOC misconstrues the rules of evidence. Relevancy relates not to the persons of the Feigleys, but to the factual allegations of the complaint. Relevant evidence means "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence," PaRE 401, emphasis added. The Commission has jurisdiction over individuals.

The same arguments apply to Dennis Durant. The Feigleys' area of inquiry relates strictly to the operation of the telephone system as it bears on the claims made in the complaint. The Feigleys' intend to show that prison guards can and do vindictively

and without supervision disconnect legitimate telephone calls and thereby impose additional expense for the Complainants. The Feigleys also intend to show that (A) the telephone system doesn't work properly, (B) that the DOC know it doesn't work properly (C) that no legitimate investigation of disconnected calls is conducted and (D) that there is no means of obtaining a refund or adjustment for improper charges.

DOC disingenuously whines a "security" concern. No inquire relates to security only to the endemic pattern of willful cheating and dishonesty. If, at the hearing, a question is perceived to excite DOC's paranoid and exaggerated notion of security, a specific objection can be raised.

DOC objects to the appearance of Mr. John McAndrews based on bureaucratic double talk about the phony inmate grievance scheme. That is not the issue here. The question is may Mr. McAndrews have evidence relevant to the Feigleys' claims, not if Mr. McAndrews has claims of his own (which he likely does). He is a person who is not a party who is qualified to testify to how the telephone system actually operates.

DOC asserts that its objection is timely. It is not. Mr. Feigley prepared the motion for subpoenas on 10 March 2005 and turned it in to a guard sergeant for mailing the following day, 11 March 2005. Pursuant to the Supreme Court's so-called "mailbox rule," service was effected upon the guard receiving the envelope. All delays in DOC receiving the motion is the responsibility of

the DOC. The only problem with service was the failure of DOC to serve Mr. Feigley, a party of record.

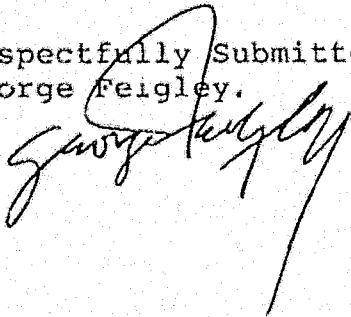
Verizon Select Services' objections are murky at best. Apparently their objection is that the subpoenaed persons are not Verizon employees. While that's irrelevant, it's a factual allegation to be shown at the hearing.

Verizon seems to object to the witnesses having with them documents to assure that their testimony is complete and accurate. The Feigley have no intention to submit any such documents into evidence, only to allow the witness to be accurate and complete. The "I don't remember" ploy is a common bureaucratic defense.

Conclusion:

The Respondents have failed to show any of the legitimate reasons why a subpoena may not issue. The question before the Commission is simply if the proffered evidence is relevant, material and non-repetitive; if it is consistent with the rules of evidence. The Feigleys assert that all the evidence is germane and that the subpoenas should issue.

Respectfully Submitted:
George Feigley.



Date: 2 April 2005

Before The Pennsylvania
Public Utility Commission

REC-100-1000
SEC.

Sandra and George Feigley :
Complainants :
v : Number 2004 3621
Verizon Select Services, Inc. :
and Department of Corrections :
by Robert Shannon :
Respondents :

Certificate of Service

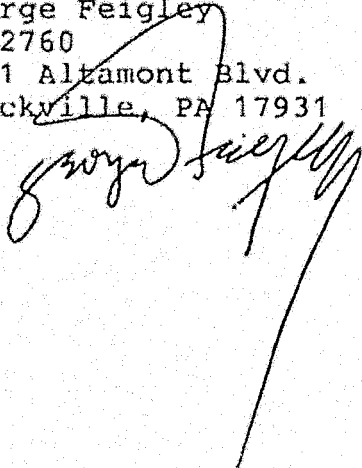
I certify that I am this day serving a true copy of the herewith
Reply by first class mail, postage prepaid upon the following
persons:

Todd S. Stewart, Esq.
Hawke McKeon Sniscak Kennary
Box 1778
Harrisburg, PA 17105-1778

William E. Fairall, Jr., Esq.
Deputy Chief Counsel
55 Utley Drive
Camp Hill, PA 17011

I am:
George Feigley
AK 2760
1111 Altamont Blvd.
Frackville, PA 17931

Date: 2 April 2005



OALJ Hearing Report

Please Check Those Blocks Which Apply

Docket No.	C-20043621		YES	NO
Case Name	Sandra & George Feigley v Verizon Select Services, inc.	Prehearing Held:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ALJ	Louis G. Cocheres	Hearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Reporting Firm	Commonwealth Reporting	Testimony Taken:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Location	HBG	Transcript Due:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Date	May 6, 2005	Hearing Concluded:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Further Hearing Needed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Estimated Add'l Days:		
		RECORD CLOSED:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		DATE:	6/23/05	
		Briefs to be Filed:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		DATE:		
		Bench Decision:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		REMARKS:	Mr. Feigley will file his brief on 5/27/05. The remaining parties will file their briefs on 6/23/05.	

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RECEIVED

MAY 5 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PLEASE PRINT CLEARLY - Incomplete Information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
✓ TODD S. STEWART Hawke McKeon Swiscale & Kohn LLP	PO Box 1778 Harrisburg City: Harrisburg State: PA Zip: 17101	Verizon Select Services Inc.
Telephone: 717 236 1300	E-mail Address: tsstewart@hmsk-law.com	Fax Number: 717 236 4841
✓ Sandra Feigley & L George Feigley AK2760 1111 Altamont Blvd FRACKVILLE, PA 17931	PO Box 15541 HARRISBURG, PA City: State: PA Zip: 17105	PRO Se
Telephone: 717-236-6045	E-mail Address: af@prose.com	Fax Number:
✓ William E FAIRALL PA Dept. of Corrections	55 UTLEY DRIVE Camp Hill City: State: PA Zip: 17011	PA Dept. of Corrections
Telephone:	E-mail Address: wfairall@StatePAUS	Fax Number: 717 375-2217

Check this box if additional parties or attendees appear on back of form.

5/6/05
elf

Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

Name and Telephone Number	Address	Who are you representing?
/ BRUCE KARIE	600 HIDDEN RIDGE IRVING, TX 75036 <small>City State Zip</small>	VERIZON SELECT
Telephone:	E-mail Address:	Fax Number:
Telephone:	E-mail Address:	Fax Number:
Telephone:	E-mail Address:	Fax Number:
Telephone:	E-mail Address:	Fax Number:
Telephone:	E-mail Address:	Fax Number:
Telephone:	E-mail Address:	Fax Number:
Telephone:	E-mail Address:	Fax Number:
Telephone:	E-mail Address:	Fax Number:

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley :
Complainants :
v : Number C-2004 3621
Verizon Select Services, Inc. :
and Department of Corrections :
by Robert Shannon :
Respondents :

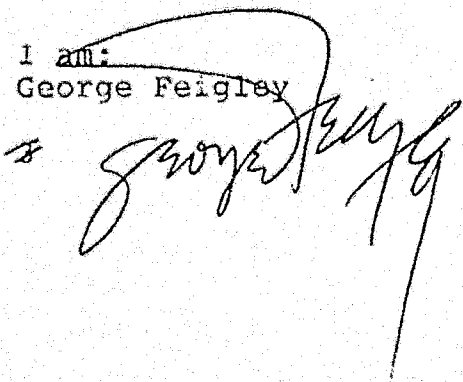
Certificate of Service

I certify that I am this day serving copies of the herewith
exception upon the parties by first class mail postage prepaid,
addressed as follows:

Todd S. Stewart, Esq.
Hawk McKeon Sniscak Kennard
100 North Tenth Street
Harrisburg, PA 17105-1778

William E. Fairall, Jr Esq.
Deputy Chief Counsel
55 Utley Drive
Camp Hill, PA 17011

I am:
George Feigley



Date: 26 April 2005

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MAY - 9 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley, :
Complainants :
v :
Verizon Select Services, Inc. :
and Department of Corrections :
by Robert Shannon :

Number C-20043621

Amended
Certificate of Service

I, the undersigned, certify that I am, this day, serving a true and correct copy of the herewith motion and pro forma subpoenas by first class mail, postage prepaid upon the following person:

John McAndrews, AF 9458
1111 Altamont Blvd.
Frackville, PA 17931

I am: *Sandra Feigley*
Sandra Feigley
sf@prisoners.com
717-236-6045

Date: 15 March 2005

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AUG 29 2005

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PA PUC

Sandra and George Feigley,
Complainants
v
Verizon Select Service, Inc.
and Department of Corrections
by Robert Shannon
Respondents

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Number: C-20043621

Motion for Subpoenas
Pursuant to 52 PaCode 5.421

PA FUC

1. On or about 21 August 2004 Sandra Feigley (hereinafter "Mrs. Feigley"), a Pennsylvania citizen who receives telephone calls from Pennsylvania state prisoners, and her husband, George Feigley (hereinafter "Mr. Feigley"), a prisoner at State Correctional Institution at Frackville (hereinafter "SCI-Frackville") instituted a formal complaint against Verizon Select Services, Inc. and the Department of Corrections (hereinafter "DOC") the partnership which operates and profits from the state-granted telephone monopoly which prisoners and their families are constrained to use.

2. On 3 February 2005 Administrative Law Judge Louis G. Cocheras scheduled a "telephonic/video conference hearing" on the complaint for 10 AM Friday, 6 May 2005.

3. To establish their claims the Complainants ask the Commission to issue three subpoenas to compel the attendance, and testimony as well as the production of documents of/by the three persons evidenced by the herewith pro forma subpoenas.

Each of these witnesses has germane and probative evidence which comports with the Pennsylvania Rules of Evidence.

4. In anticipation of the preparation of these subpoenas, Mr. Feigley made a good faith effort to communicate with Peter Damiter, Administrative Assistant to Superintendent Robert Shannon at SCI-Frackville, to work out exactly where within the prison and how the conference would be held so that witnesses could be informed as to place. Acting for the Respondent DOC, Mr. Damiter refused good faith cooperation and would not specify the place within the prison where witnesses should appear. Therefore, the subpoenas require attendance of the witnesses "at the place within SCI-Frackville concealed by Peter Damiter."

5. Complainants propose to subpoena Amanda Ashelman, Telephone Coordinator, SCI-Frackville, 1111 Altamont Blvd., Frackville PA 17931 to testify to

A. what actions she takes when she receives a complaint from Mr. Feigley or another prisoner that the telephones have disconnected calls,

B. what authority she has to make refunds for errors made by the system and what refunds she's authorized during the past year,

C. how many complaints she's received during the past year of problems, disconnections and similar irregularities with the phone monopoly,

D. the number of errors made during that period of time by the automated system,

E. what measures she takes to assure that telephone calls are accurately timed and billed and

F. the number, nature and verbatim content of messages interjected into telephone conversations by the telephone monopoly's automated system and their total duration in time along with the inability of a caller to communicate during the messages. In addition the witness will produce such records as are necessary to testify fully and accurately and all the documents from either Respondent or from T-Netix instructing her how to deal with complaints about the system including instructions from security officials, if any.

6. Complainants propose to subpoena Dennis Durant, the so-called Intelligence Captain in charge of security including telephone security at SCI-Frackville, 1111 Altamont Blvd., Frackville PA 17931 to testify that:

A. all telephone calls made by Mr. Feigley are recorded,

B. how the guards who censor the telephone calls and adjust the "sensitivity" of the system disconnect calls,

C. what instructions are given to prison guards to disconnect telephone calls,

D. any examination of the eavesdropping recordings made of Mrs. or Mr. Feigley's conversations indicate the use of call-forwarding or three-way calling,

E. exactly who and under what conditions any person has access to the content of the conversations between husband and wife.

In addition, the witness will produce all documents necessary for him to testify fully and accurately.

7. Complainants propose to subpoena John McAndrews, AF 9458, a prisoner at SCI-Frackville, 1111 Altamont Blvd., Frackville, PA 17931, to testify to:

A. his having had many problems with the monopoly's automated system,

B. having sought redress in all possible ways without success and

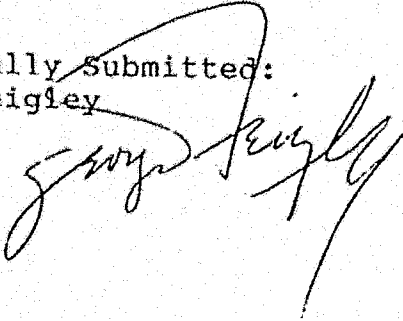
C. the cost to himself and his loved ones of the disconnections and improper timing of the automated system.

In addition the witness with bring with him all documents necessary for him to testify fully and accurately.

8. **NOTICE:** Each party and each individual who is being subpoenaed, is hereby notified that an answer or objection to this application shall be filed with the Commission and ALJ Louis G. Cocheras, Box 3265, Harrisburg, PA 17105-3265, 717-783-5452, within ten (10) days of service.

Wherefore, the Complaints pray the Commission to issue the subpoenas they seek.

Respectfully Submitted:
George Feigley

A handwritten signature in cursive script, appearing to read "George Feigley". The signature is written in black ink and is positioned below the typed name "George Feigley".

Date: 10 March 2005

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley,
Complainants

v

Verizon Select Service, Inc.
and Department of Corrections
by Robert Shannon
Respondents

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Number: C-20043621

Subpoena to Attend and Testify

TO: Amanda Ashelman

1. You are ordered by the Public Utility Commission to come to the place within SCI-Frackville concealed by Peter Damiter at 1111 Altamont Blvd., Frackville, PA 17931 on 6 May 2005 at 10 AM to testify for the above named Complainants and to remain until excused.

2. And bring with you the following: such records as are necessary for you to testify fully and accurately and all the documents in your possession from either Respondent or T-Netix instructing you how to deal with complains by prisoners or their families about the telephone system.

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including, but not limited to costs, attorney fees and imprisonment.

Requested by: Sandra Feigley
Box 15541
Harrisburg, PA 17105
717-236-6045
sf@prisoners.com

By the Commission

Date: _____

By: _____

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley,
Complainants

v

Verizon Select Service, Inc.
and Department of Corrections
by Robert Shannon
Respondents

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Number: C-20043621

Subpoena to Attend and Testify

TO: Dennis Durant

1. You are ordered by the Public Utility Commission to come to the place within SCI-Frackville concealed by Peter Damiter at 1111 Altamont Blvd., Frackville, PA 17931 on 6 May 2005 at 10 AM to testify for the above named Complainants and to remain until excused.

2. And bring with you the following: such records as are necessary for you to testify fully and accurately.

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including, but not limited to costs, attorney fees and imprisonment.

Requested by: Sandra Feigley
Box 15541
Harrisburg, PA 17105
717-236-6045
sf@prisoners.com

By the Commission

Date: _____

By: _____

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley,
Complainants

v

Verizon Select Service, Inc.
and Department of Corrections
by Robert Shannon
Respondents

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Number: C-20043621

Subpoena to Attend and Testify

TO: John McAndrews, prisoner AF 9458

1. You are ordered by the Public Utility Commission to come to the place within SCI-Frackville concealed by Peter Damiter at 1111 Altamont Blvd., Frackville, PA 17931 on 6 May 2005 at 10 AM to testify for the above named Complainants and to remain until excused.

2. And bring with you the following: such records as are necessary for you to testify fully and accurately.

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including, but not limited to costs, attorney fees and imprisonment.

Requested by: Sandra Feigley
Box 15541
Harrisburg, PA 17105
717-236-6045
sf@prisoners.com

By the Commission

Date: _____

By: _____

C-20043621

Make Verizon Refund For Disconnected Calls

By: Irene West

SECRETARY'S BUREAU

2005 MAY 10 AM 9:41

RECEIVED

Lisa (she wouldn't give her full name) at Verizon Select Services said "You're not getting your money back!" She was rude, nasty and a good reason to boycott Verizon for all any telephone services. Get your cell someplace else.

Prisoners all over the state, all over the country are complaining about their calls being disconnected. Families are being saddled with huge reconnection fees. As we all know, it's because the T-Netix system used by many prison telephone rackets is a defective product. (They should be sued for it.) Pure and simple, the T-Netix gadget doesn't work. Everybody recognizes that the system is crap, including the prisons which use it. They don't care because they're getting million of dollars of your money as kickbacks.

When one of our editors phoned Verizon, Lisa in the Budget Connection Department (1-888-610-7079) rudely pronounced her edict: "You're not getting your money back!"

DOCKETED
AUG 20 2005

Don't you believe it!

When YOU have trouble with the bogus phone system, we urge you to follow some simple steps

- 1. Make a good faith effort to get an adjustment and a refund. Make three phone calls: (a) to the local prison, (b) to the prisons' central office and (c) to Verizon at 1-888-610-7079. The prisons are part of the racket. They'll tell you that it's your fault. The prisons like to blame the victims, but you should give them a chance just in case. Verizon will tell you that it's your fault, but give them a chance then dump all your Verizon services and urge your friends and family to do the same.
- 2. To get your money back, file a simple formal complaint with:

Secretary
PA Public utility Commission
Box 3265
Harrisburg, PA 17105-3265
717-772-7777.

**DOCUMENT
FOLDER**

Just phone them. They'll send out a short, simple form. Send it back. You'll cost Verizon a lot more than they cost you and you'll likely get a refund.

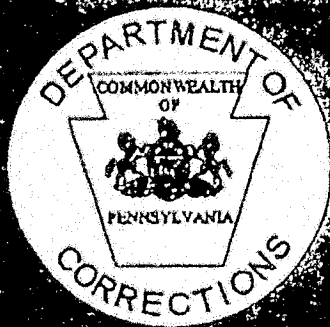
- 3. Include the prison in your complaint. The phone racket is a partnership between Verizon and the Department of Corrections. They are in it together and they split the enormous sums they gouge from you.
- 4. Ask for a hearing. It will be by phone.

We wish you luck. If you talk to Lisa, tell her we've made her famous and try to get her full name. She deserves a change of job.

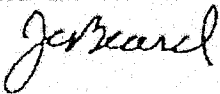
"Never trust a computer you can't throw out a window"
(circa 1988) Steve Wozniak

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Please give www.prisoners.com credit as the source

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POLICY STATEMENT
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject: Automated Inmate Telephone System		Policy Number: DC-ADM 818
Date of Issue: March 10, 2005	Authority:  Jeffrey A. Beard, Ph.D.	Effective Date: April 11, 2005

I. AUTHORITY

The Authority of the Secretary of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901-B of the Administrative Code of 1929, 71 P.S. §§61, 66, 186, and 310-1, Act of April 9, 1929, P.L. 177, No. 175, as amended.

II. PURPOSE

It is the purpose of this document to establish policy and procedures governing inmate telephone privileges and the electronic surveillance of inmate telephone calls.

III. APPLICABILITY

This policy applies to all State Correctional Facilities, Regional Correctional Facilities, and the Motivational Boot Camp.

IV. DEFINITIONS

A. Attorney

For the purpose of this policy, any person licensed to practice law in any state or federal court and who represents an inmate.

B. Automated Inmate Telephone System (AITS)

A computer based telephone system, which enables the Department to monitor and control the use of inmate telephones.

C. Call Block

Placing a restriction on a specific number or series of numbers which prohibits calling those numbers.

D. Calling Blocks

A calling block is a 15 minute period of time with which an inmate may make phone calls.

E. Called Number Frequency

The ability to place a limit on the number of times an individual number may be called in any given period.

F. Call Records

The data storage and retrieval of all calling information.

G. Compact Disk (CD)

A device used to digitally record a telephone conversation from the hard drive of the AITS.

H. Department

The Pennsylvania Department of Corrections.

I. Electronic Surveillance

The interception, recording, monitoring, and/or divulging of inmate telephone calls.

J. Facility Authorized Telephone Call

Telephone calls placed for inmates by staff on the facility's regular telephone system.

K. Facility Manager

The Superintendent of a State Correctional Facility or State Regional Correctional Facility, Commander of a Motivational Boot Camp, Director of a Community Corrections Center or Director of the Training Academy.

L. Immediate Family Member

Immediate family members are defined as spouse (**includes common law**), children, parents, grandparents, brothers, sisters, and guardian, aunt or uncle or step relatives in the aforementioned categories with whom the inmate has made his/her home. Such relationships must be verifiable in the inmate's facility records by the counselor.

This information can be obtained in the inmate's DC-15, Classification Section, on the Personal Data Questionnaire (PDQ).

M. Inmate Personal Identification Number (IPIN)

The unique set of six digits assigned to individual inmates, which enables them to access the AITS.

N. Inmate Telephone Authorization (DC-8A)

A Department form completed by inmates listing the name, relationship, telephone number and address of individuals with whom the inmate is requesting to maintain telephonic communications.

O. Inmate Telephone Authorization Supplement (DC-8B)

A Department form completed by an inmate requesting changes to his/her approved telephone list.

P. Investigative or Law Enforcement Officer

Any officer of the United States or of the Commonwealth of Pennsylvania or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in the **Wiretapping and Electronic Surveillance Act, 18 Pa. C.S. §5701 et. seq.**, and any attorney authorized by law to prosecute or participate in the prosecution of such offense.

Q. Minor

Any person under 18 years of age.

R. Multiple Long Distance Carriers

Companies which offer long distance calling requiring a five digit code for access.

S. North American Calling Plan

The area includes all 50 states, Canada and parts of the Caribbean Islands composed of the following with area codes: Bahamas (242), Bermuda (441), Barbados (246), British Virgin Islands (284), Puerto Rico (787) and the U.S. Virgin Islands (340).

T. Pennsylvania Relay Service

The Pennsylvania Relay Service is a telephone service that allows persons to use TDDs to communicate with hearing and speech-impaired persons and, vice versa, through the assistance of specially trained operators.

U. Recording Media

A digital audiotape or other electronic recording medium which stores the human voice.

V. Recording/Monitoring (R/M)

The recording/monitoring of inmate telephone conversations.

W. Station-to-Station Calling

Enables the caller to speak to any answering party at the number you have asked the Operator to dial.

X. Text Telephones (TTY/TTDs)

Telecommunications Devices for the Deaf (TDD) are typewriter-like machines that permit hearing or speech-impaired persons to communicate by typing messages back and forth over telephone lines.

Y. Three Way Calling

A telephone company service which adds a third party with a different telephone number to an existing conversation.

V. POLICY

It is the policy of the Department to grant inmates the privilege of legitimate telephone communications with individuals in the community, while at the same time protecting society from harm, including but not limited to criminal activity, harassment, threats, and intimidation using the inmate telephone system.¹

VI. PROCEDURES

The inmate telephones may only be used to place collect calls to a telephone number in the North American Calling Plan, *or through pre-paid calls purchased by the inmate*. All procedures relative to staff are contained in the confidential procedures manual for this policy.

A. Inmate Access

1. Telephone system call frequency and duration are based on the custody level for a general population inmate. A custody level 4 inmate is permitted a maximum of three 15 minute calling blocks of time per week. A custody level 3 inmate is permitted a maximum of one 15 minute calling block every day. A custody level 3Y, 2, and 1 inmate is authorized *two 15 minute calling blocks of telephone time every day*.

¹ 4-4497, 1-ABC-5D-11, 2-CO-5D-01

2. Multiple calls per time block are permitted. A facility may limit calling frequency below the maximum if the number of inmate telephones available do not allow for sufficient calling blocks of time, and for other operational or security reasons.
3. Calling schedules will be determined by the facility.
4. Telephone privileges for inmates in Restricted Housing Units (RHU), Special Management Units (SMU), Long Term Segregation Units (LTSU), and any other specialized housing unit will be governed by Department policy DC-ADM 801, "Inmate Discipline," DC-ADM 802, "Administrative Custody Procedures," and 6.5.1, "Administration of Security Level 5 Housing Units."
5. Inmate telephone calls are a privilege, which can be curtailed or rescinded by the Unit Manager through the informal resolution of a misconduct in accordance with Department policy DC-ADM 801. Inmate telephone calls may also be curtailed or rescinded for administrative or disciplinary reasons by the Hearing Examiner, Facility Manager or designee.

B. Telecommunication Devices for the Hearing Impaired

1. Facilities housing hearing impaired inmates shall provide Telecommunication Devices for the Deaf (TTY/TDDs) to provide communication to or from hearing or speech-impaired persons.²
2. The Pennsylvania Relay Service allows persons to use TTY/TDDs to communicate with hearing impaired and speech-capable persons and vice-versa, through the assistance of specially trained operators.³ The toll free number for operator assistance for placing TTY/TDD calls is 800-855-1155.
3. A remote printer will produce a copy of the conversation for monitoring purposes.
4. An inmate using the TTY/TTD shall be permitted 30 minute calling blocks of time.

C. Restrictions

1. A call on the AITS will be initially announced to the called party as originating from a correctional facility and subject to monitoring and/or recording. Announcements may be made periodically during telephone conversations.
2. An inmate is prohibited from initiating calls to the following:
 - a. an inmate, a former inmate, parolee, probationer, or co-defendant(s) without the written approval of the Facility Manager/designee;

² 4-4497

³ 4-4497

- b. an employee or former employee of the Department unless requested in writing by the employee/former employee and approved in writing by the Facility Manager/designee;
 - c. a judge, criminal justice official, prosecutor or court administrator without his/her prior written approval;
 - d. a minor unless approved in writing by a parent or legal guardian;
 - e. a victim of the crime for which the inmate is incarcerated unless requested in writing by the victim and approved by the Facility Manager/designee;
 - f. a member of the public who request in writing to have his/her telephone number call blocked;
 - g. all toll-free and emergency numbers (800, 888, 911) with the exception of toll-free numbers for the Pennsylvania Relay Service for TTY/TDD equipment for the hearing impaired;
 - h. three-way calling, call forwarding, and calls through a call forwarding service using a local phone number;
 - i. placing a call through a multiple long-distance carrier; and
 - j. placing a call to a local, county, state, or federal correctional facility, a Community Corrections Center (CCC), or to an inmate housed there without the prior written approval of officials at both facilities.
3. If written approval is granted for any of the calls listed above, the call shall be monitored.
 4. Use of any office telephone or other telephone not specifically designated for an inmate is prohibited except as otherwise provided for under this policy.
 5. A telephone number that the facility has reason to believe is being used to violate Department policy or regulations will be call blocked.
 6. Use of the same telephone number on multiple IPIN lists at an individual facility is prohibited unless an immediate family relationship can be established. The facility Manager/designee must approve such exceptions in writing.

D. Procedure for Obtaining Telephone Privileges

1. The inmate will be permitted to place a call on the AITS within 72 hours of initial reception or recommitment as a parole violator. The inmate will be required to have an IPIN to access the system. The length of the call will be automatically limited to 15 minutes. Each facility shall develop procedures to ensure compliance with the time frame requirement.

2. A list of every approved telephone number shall be established during the initial classification period and recorded on the **DC-8A, Inmate Telephone Authorization Form (Attachment A)**. A copy of the **DC-8A** will be kept in the inmate's record. The Diagnostic and Classification Center (DCC) will develop detailed procedures to be followed.
3. The inmate must sign the **DC-8A** verifying that he/she has read, or has had read to him/her, the provisions of this policy. Failure to sign the form will result in denial of inmate telephone privileges.
4. An individual inmate telephone list is limited to 20 *active* telephone numbers.
5. An attorney's telephone number is to be listed separately on the **DC-8A**, and is not counted against the total of 20. The attorney must be representing the inmate and the relationship must be verifiable through the inmate's counselor. The attorney telephone number must be verifiable and will not be subject to recording or monitoring.⁴
6. The complete name, relationship, telephone number, and street address of every person whom the inmate wishes to call must be listed. A P.O. Box may be considered a valid address. An incomplete form will be returned to the inmate without action.
7. The inmate may request to add or delete from his/her approved list of telephone numbers monthly using the **DC-8B, Supplementary Authorized Inmate Telephone Numbers Form (Attachment B)**. A copy of the **DC-8B** will be kept in the inmate's record. Each facility will develop local written procedures detailing implementation of this process. The inmate must sign the **DC-8B**, verifying that he/she has read or has had read to him/her the provisions of this policy. Failure to sign the form will result in denial of inmate telephone privileges.
8. The inmate may place calls when he/she receive a computer listing of the telephone numbers which have been entered into the AITS under his/her IPIN.
9. The IPIN number issued to the inmate is considered confidential. The loaning, borrowing, or theft of that number is prohibited and will result with any involved inmate receiving a misconduct.
10. In the event the inmate experiences difficulty in using the AITS after his/her phone numbers have been entered into the AITS computer, a **DC-8C, Telephone System Discrepancy Form (Attachment C)** will be completed to resolve the problem. The form shall be forwarded to the Telephone System Administrator for resolution.
11. The inmate shall be notified in the event the system experiences any malfunctions or becomes inoperable.

⁴ 4-4274, 4-4275, 1-ABC-3D-02

E. Payment

1. Telephone calls using the AITS must either be collect in accordance with 66 Pa. C.S. §2907, where the cost of the telephone call must be borne by the called party, or through pre-paid calls purchased by the inmate.
 - a. Pre-paid calls may be purchased in the commissary in \$15, \$25, or \$50 amounts, not to exceed a \$100 limit per week.
 - b. At the time of release, any balance in excess of \$1.00 will be refunded by the telephone system vendor in the form of a pre-paid telephone card. Any balance of less than \$1.00 will be placed in the Inmate General Welfare Fund (IGWF).
 - c. There will be no refund for pre-paid accounts unless the inmate is released.
 - d. If the inmate is deceased, a refund will be sent to his/her next-of-kin, consistent with **Subsection VI.1.E.b.** of this policy.
2. A call placed under exceptional circumstances as stated in **Subsection F.** of this policy must be collect or paid for by the inmate. A regular facility telephone may be used only when such a call cannot be made on the AITS. Prior to placing a non-collect call, the inmate must sign a cash slip authorizing the deduction from his/her account prior to placing the call. If the inmate is indigent, has no funds currently available and a collect call is not feasible, the cost shall be charged to the inmate's account and the debt will be satisfied as funds are deposited to the inmate's account.

F. Facility Authorized Telephone Calls

1. The Facility Manager/designee may authorize the use of the facility owned telephone system for the following reasons:
 - a. serious illness, hospitalization or death of an immediate family member;
 - b. contact with an attorney regarding a legal matter when the attorney won't accept a collect call;⁵
 - c. contact with an attorney regarding a legal matter which, because of an immediate deadline, cannot be handled in person or via correspondence;⁶ and/or
 - d. an extraordinary or unusual circumstance.
2. The inmate placing the call must establish that an actual emergency exists. The staff member authorizing the inmate telephone call must verify the emergency exists prior to placing the call and document the call on a DC-121, Part 3,

⁵ 4-4274

⁶ 4-4274

employee Report of Extraordinary Occurrence, and forward the report to the Security Office and the Facility Manager/designee. In addition, a facility-authorized call is to be monitored by the staff member providing this privilege. If the inmate does not agree to have this phone call monitored he/she will not be granted the privilege of placing a telephone call on the regular telephone system. An attorney phone call shall not be monitored; however, staff will first verify that the call is received by the attorney.

3. A call placed under this section will be recorded by the counselor on the inmate's **DC-14, Cumulative Adjustment Record**.
4. A Department staff member authorizing an inmate phone call to arrange for a ride upon the inmate's release of parole does not need to fill out a **DC-121, Part 3**.

G. Electronic Surveillance

Pursuant to the **Wiretapping and Electronic Surveillance Act, 18 Pa.C.S. §5701, et seq.**, every inmate telephone call is subject to interception, recording, monitoring, and disclosure except those placed to or from an attorney representing the inmate.

VII. SUSPENSION DURING AN EMERGENCY

In an emergency or extended disruption of normal facility operations, the Secretary/designee may suspend any provision or section of this policy for a specific period.

VIII. RIGHTS UNDER THIS POLICY

This policy does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. This policy should be interpreted to have sufficient flexibility to be consistent with law and to permit the accomplishment of the purpose of the policies of the Department.

IX. RELEASE OF INFORMATION AND DISTRIBUTION OF POLICY

A. Release of Information

1. Policy

This policy document is public information and may be released upon request.

2. Procedure Manual (if applicable)

The procedures manual for this policy is not public information and shall not be released in its entirety or in part, without the prior approval of the Secretary/Designee. This manual or parts thereof may be released to any Department employee on an as needed basis.

B. Distribution of Policy

1. General Distribution

The Department's policy and procedures manuals (when applicable) shall be distributed to the members of the Central Office Executive Staff, all Facility Managers, and community corrections regional directors on a routine basis. Distribution to other individuals and/or agencies is subject to the approval of the Secretary/designee.

2. Distribution to Staff

It is the responsibility of those individuals receiving policies and procedures, as indicated in the "General Distribution" section above, to ensure that each employee expected or required to perform the necessary procedures/duties is issued a copy of the policy and procedures.

X. SUPERSEDED POLICY AND CROSS REFERENCE**A. Superseded Policy**

1. Department Policy

- a. DC-ADM 818, Automated Inmate Telephone System, issued November 5, 2001, by Secretary Jeffrey A. Beard, Ph.D.
- b. DC-ADM 818-1, Automated Inmate Telephone System, issued August 19, 2004, by Secretary Jeffrey A. Beard, Ph.D.

2. Facility Policy and Procedures

This document supersedes all facility policy and procedures on this subject.

B. Cross References

1. Administrative Manuals

- a. DC-ADM 801, Inmate Discipline
- b. DC-ADM 802, Administrative Custody Procedures
- c. 6.3.1, Facility Security
- d. 6.5.1, Administration of the Restricted Housing Unit

2. Accreditation Standards

- a. Administration of Correctional Agencies: 2-CO-5D-01
- b. Adult Correctional Institutions: 4-4142, 4-4274, 4-4275, 4-4497
- c. Adult Community Residential Services: None
- d. Adult Correctional Boot Camp Programs: 1-ABC+3D-02, 1-ABC-5D-11
- e. Correctional Training Academies: None

3. Other

- a. Wiretapping and Electronic Surveillance Act, 18 Pa.C.S. §5701, et. Seq.
- b. Public Utility code, 66 Pa.C.S. §2907

DC-ADM 818, Automated Inmate Telephone System Policy

Attachment A

Inmate Telephone Services
Inmate Telephone Authorization Form

Inmate Name (first/last):		Inmate #:	Date:	Facility:	Housing Unit/Cell #:	Inmate IPIN #:
NUMBER(S) REQUESTED						
(Area Code) Number	Name of Person(s)	Address (include City, State, Zip)			Date of Birth	Relation to You
1. ()						
2. ()						
3. ()						
4. ()						
5. ()						
6. ()						
7. ()						
8. ()						
9. ()						
10. ()						
11. ()						
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14. ()						
15. ()						
16. ()						
17. ()						
18. ()						
19. ()						
20. ()						
()						
()						
Attorney:						
Attorney:						
Any telephone call that you make or receive in any state correctional facility, may be intercepted, recorded, monitored, or divulged. The only exception is properly placed telephone calls to or from your attorney. _____ Inmate Signature						
() All Approved () All Approved Except:						
Remarks:						
Approving Signature:					Date:	
					Title:	
					Date:	

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley
Complainants

V
Verizon Select Services, Inc.
and Department of Corrections
by Robert Shannon
Respondents

Number C-2004 3621

Certificate of Service

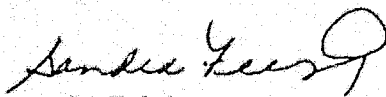
I certify that I am this day serving true copies of the herewith exhibits by first class mail, postage prepaid upon the following persons:

Judge Louis G. Cocheres
Administrative Law Judge
P.O. Box 3265
Harrisburg, PA 17105

Todd S. Stewart, Esq.
Hawke McKeon Sniscak Kennary
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William E. Fairall, Jr., Esq.
Deputy Chief Counsel
55 Utley Drive
Camp Hill, PA 17011

I am


Sandra Feigley

Date: 10 May 2005

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Before the Pennsylvania
Public Utility Commission

ORIGINAL

Sandra and George Feigley,
Complainants

v

Verizon Select Services, Inc.
and Department of Corrections
by Robert Shannon
Respondents

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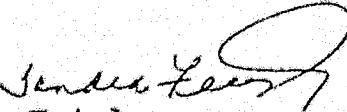
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Todd S. Stewart, Esq.
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William E. Fairall Jr Esq.
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I am: 
Sandra Feigley

Date: 24 May 2005

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10

both VSSI and DOC by means of Robert Shannon, the individual agent at SCI-Frackville who operates the telephone monopoly.

On 31 March 2004 Administrative Law Judge ("ALJ") Louis G. Cocheres issued Prehearing Orders Number 1 and 2 to which the Feigleys have filed certain exceptions. Those exceptions dated 25 April 2005 are included here by reference as if set forth in full.

A five hour long multi-party video hearing was conducted on 6 May 2005. It is noteworthy that the hearing didn't commence until more than an hour late due to difficulties with the phone link. The proceedings were repeatedly (perhaps 11 times) interrupted by the failure of the telephone link. Apparently the telephone link was Verizon technology and was managed by one or more computers. The unreliability of the link made the hearing disjointed and lacking in continuity. The Feigleys had difficulty maintaining their train of thought. It also served as a vivid example of the unreliability of telephone line computers and Verizon. Such problems may only be a small nuisance to free persons who have other alternatives, but they are a profound obstacle to persons like the Feigleys who have no alternatives except the prison monopoly.

At the hearing both Mrs. and Mr. Feigley gave evidence and offered exhibits. They also offered the testimony of Amanda Ashelman and Dennis Durant. VSSI offered no exhibits, but called two employees as witnesses. Both testified to hearsay and

speculation. The DOC offered no witnesses, but examined other witnesses.

Besides the appropriate attorneys, one, "Mr. Kazee," conducted some questioning. This fellow doesn't represent any party and had not entered an appearance. He purported to represent Verizon as "in-house counsel." Verizon is not a party to this action although it is part of the tangled corporate web which contrives to cheat and deceive the Respondents. While the Feigleys have no objection to someone wondering in off the street, it was error to permit the spectator to conduct any questioning. It all should be stricken.

The Feigleys now brief in support of their complaint and to frame the issues with precise arguments.

Facts:

The facts are those presented by the Feigleys at the hearing and in their complaint, specifically as follows.

Last things first: on or about 22 March 2005, during the pendency of this matter, some person unknown added "call forwarding," a custom calling feature, to Mrs. Feigley's telephone account. Until that time she'd never had any custom calling features on her phones. Neither Mrs. or Mr. Feigley ordered the service nor do they want it. It appears to have been added illegitimately by one of the Respondents or one of their affiliates/partners/agents.

One of the Feigley's primary allegations is that Mrs. Feigley doesn't subscribe to any custom calling features so disconnected calls cannot be due to their use. It appears that someone made an intentional effort to improperly tamper with Mrs. Feigley's service and so, to tamper with the integrity of this case.

The Feigleys add this incident to their complaint and ask the PUC to investigate it and obtain the records/recordings evidencing who added the service and why. The incident only came to light shortly before the hearing when Mrs. Feigley carefully examined her bill to bring along as an exhibit.

In order to communicate by telephone, the Feigleys are obliged to use a system operated by the partnership of DOC and VSSI using technology and software provided by T-Netix through one or more aliases along with an outfit identified only as "ShawnTeck" of unknown affiliation, and Verizon through one or more of its aliases. Jointly, this Gordian knot comprises a monopoly. It is the only telephone system which the Feigleys may use to talk together. In that way it hearkens back to the bad-old-days before competition in the telecommunication industry. It is therefore unique and distinctly different from other Pennsylvania telephone utilities.

The monopoly generates a huge sum of money. The DOC partner profits to the tune of at least \$6,000,000.00 per year. For that lucrative cut of the pie, DOC provides numerous services and space along with enforcement and money collection for the monopoly.

In essence, the Feigleys and other prisoners and their families are paying an unauthorized tax to the DOC.

The T-Netix system purports to provide certain specific functions. The enormous costs of the product are supposedly justified by the functions it supposedly provides. The functions that the scheme supposedly provides include the following.

1. To censor phone calls and allow guards to listen in,
2. Record the content of phone calls along with their date and time of day,
3. Limit the persons that Mr. Feigley may telephone,
4. Limit how frequently and for what duration of time Mr. Feigley may telephone,
5. Time the duration of the calls,
6. Disconnect calls where a party uses three-way calling or call forwarding,
7. Periodically (about every 3 minutes) interrupt the conversation with an announcement which suspends the conversation,
8. Maintain a running balance of Mr. Feigley's prepaid account.

The system is not intended or sold in order to disconnect calls where a party coughs or where there's a noise. It's not sold to disconnect calls where Mrs. Feigley elects to use a cordless phone or even a cellular phone. It is not designed to bar access to the database of PI numbers or permissible telephone

numbers or account balance. It is not intended to mis-time calls to the financial benefit of the telephone monopoly.

The Feigley can and do use the system in either of two ways. In the first instance, the "prepaid option," Mr. Feigley buys telephone time from the DOC at the prison commissary. Refunds for prepaid telephone time are not available. No matter how long the monopoly has possession of the funds no interest or benefit accrues to the Feigleys. On several occasions Mr. Feigley has been unable to access or use his prepaid account even though it contained more than enough credit to make calls. Is that what the system purports to do?

Where a prepaid call is made, T-Netix's computerized system announces that Mr. Feigley will be charged \$2.25 for the first minute and 22¢ for each additional minute. Where subsequent account balances are compared, the monopoly has actually charged more than the stated rate. Pursuant to these rates, a 15 minute telephone calls costs Mr. Feigley a whopping \$5.33 plus whatever extras the monopoly decides to add (totaling about 40¢ per minute). Fifteen minutes is the maximum amount of time that DOC regulations allow the Feigleys to converse each day, see DC-ADM 818.

The second option allowed by the monopoly is for Mr. Feigley to telephone his wife collect. In that case, Mrs. Feigley is billed \$2.77 for the first minute plus 27¢ for each additional minute. A 15 minute telephone call is billed at \$6.55, but with all the extra fees, charges, "taxes" and so forth, the charge

works out to be in excess of 52¢ per minute to converse a distance of about 50 miles.

Under the threat of losing contact with her husband, Mrs. Feigley was coerced into accepting a so-called direct account with VSSI's partner/subcontractor, T-Netix although she doesn't want such an account. It's unclear what authority T-Netix has to act as a billing agent and/or a local area provider. This T-Netix account charges Mrs. Feigley a fee of \$3.99 simply to pay her bill no matter how she remits, even using cash or money order. Assertions to the contrary made by an employee of Verizon are untrue.

Before the corporate shell game swapped VSSI for T-Netix, Mrs. Feigley was billed about every 15 days. She was charged fees which purported to be taxes each time she was billed. On at least one occasion after VSSI became front-man for the monopoly, Mrs. Feigley was double billed by both tentacles of the partnership.

Mrs. Feigley is still billed by T-Netix in behalf of the monopoly. She wished to discontinue her dealings with T-Netix, but fears that she'll lose contact with her husband. The bills she receives are so arcane that they are incomprehensible and impossible to audit with any confidence. Given the corrupt nature of the monopoly's other business practices, the Feigleys are constrained to suspect that some charges may be bogus. The Feigleys add to their complaint the indecipherable nature of the

bills and ask the PUC to audit them and direct that billing be reasonably understandable.

On several occasions Mrs. Feigley's service was mysteriously and without notice disconnected or "blocked" apparently by T-Netix. She repeatedly phoned and wrote to T-Netix which was then the primary contractor for the monopoly. She received no satisfaction from the monopoly. On occasions when Mrs. Feigley had to communicate with VSSI and/or its agent, T-Netix, she was stranded on hold for as long as an hour without satisfaction.

On sundry occasions the Feigleys timed the length of their telephone calls. Their timing was consistently shorter than the times for which they were billed. Some of Mrs. Feigley's telephone bills also reflect these timing discrepancies. While only a maximum of 15 minutes of calling is allowed by the computerized system on some occasions, as for example on 11 and 14 August 2004, Mrs. Feigley was actually billed for more time; sixteen minutes on the eleventh and seventeen minutes on the fourteenth, see Exhibit Feigley's #2.

A Verizon employee asserted that he's somehow compared the times reported by one T-Netix computer with the time reported by another T-Netix computer and they agreed. Such a comparison is certainly not dispositive. Not only is a defective system likely to tell the same lie twice, but independent measurement and certification of timing is not achieved in such a manner. There is no evidence that the monopoly has even independently

assured the accurately of its timing, let alone done it at regular intervals.

During a telephone call between the Feigleys no matter if prepaid or collect, the conversation is interrupted three times with an announcement that the call is from a "correctional institution." Toward the end of the call there is a fourth announcement claiming that a minute remains and moments later a fifth announcement that 15 seconds supposedly remain. Conversation between the parties is suspended during those announcements. Before and after each announcement there's a short period of dead air during which the system seems to be playing the "margins" bracketing the message. In total, the announcements comprise about a minute of time which the Feigleys must pay for. In addition, there's a rather lengthy message at the beginning of every call no matter how it's made which comprises perhaps half a minute. The Feigleys are supposedly not charged for that time.

The Feigley's assert that best evidence would be for the PUC or the ALJ to use the system themselves/himself.

Until someone associated with the Respondents covertly and without consent added call forwarding to her telephone service, Mrs. Feigley has never had any so-called custom calling features including no three-way calling capability. On no occasion has either Mrs. or Mr. Feigley hung up on the other. Persons married for 38 years don't treat one another in that way.

On many occasions the telephone system disconnected calls where neither Mrs. or Mr. Feigley violated any of the numerous prohibitions. Typically, where such disconnections occurred, the system produced three loud beeps and announced that "three-way calling features" are not allowed. On none of these occasions did either Mrs. or Mr. Feigley use or attempt to use such features.

At number 92761 (Feigleys' Exhibit #3) Mr. Feigley filed an institutional grievance (dated 11 August 2004) relating to disconnected calls. It was Mr. Feigley's second grievance about the phone system. On 3 March 2004 he had grieved (at number 77522) the interruptions of his calls and asked for a refund of the cost of the time. Filing institutional grievances is required in order to exhaust administrative remedies before court action may be sought.

In the grievance and in subsequent memoranda Mr. Feigley listed dates when calls had been improperly disconnected. These include 14 July 2004, 28 July 2004, twice on 11 August 2004, 14 August 2004. Other dates include twice on 23 August 2004, three times on 25 August 2004, 30 June, 2004, 8 January 2005, 14 February 2005, 19 February 2005 and 28 March 2005. In addition there were many other disconnections all of which are reflected by the monopoly's system records and known to Respondents.

Respondents content that these disconnections were the result of three-way calling and one instance each of pressing a button and hanging up. Mrs. Feigley doesn't have three-way calling.

Neither Mrs. or Mr. Feigley ever pressed a button or hung up on the other.

While recordings of all calls are archived and available to Respondent DOC, nobody examined those recordings to see if three-way calling was actually used.

The answer to the grievance (Feigleys' Exhibit 3b) was rendered by a "Lt. Schauler," not the Grievance Officer, Peter Damiter, however it shows that DOC has access to all the records, but elected not to consult the recordings, rather to accept a report made by a computer. Computers make a lot of mistakes.

Respondents assert that calls can be disconnected by a person coughing, perhaps by speaking words that start with an "s," by a rain storm and/or by noise. They assert that the sensitivity of the system can be adjusted by a call to T-Netix and they claim that the sensitivity is now set low.

In fact, the testimony about the present setting of the sensitivity is pure hearsay on the part of both witnesses who offered it. Even the hearsay is not current.

It is clear, however that it's a simple matter to have the sensitivity reset so that almost anything will disconnect calls. If the prison guards who eavesdrop on the calls can't adjust the sensitivity personally, they can easily have it done by a simple phone call.

Respondents admitted that guards eavesdrop on calls, or "monitor" them as Mr. Durant preferred. They asserted, however,

that guards cannot disconnect calls. There's something incredible and contrary to common sense in that assertion. Why eavesdrop on the call if it can't be terminated? If the guard hears a conversation plotting an attack on the World Trade Center, Respondents want us to believe that the guard can't interrupt the call. - Hard to believe!

Respondents seek to excuse the defects in their system by shifting blame to the victims, Mrs. and Mr. Feigley. They assert that the "cause" for the disconnections is Mrs. Feigley's use of a cordless telephone or, perhaps a cellphone, although no collect calls are made to a cellphone and the disconnections of which the Feigleys have complained didn't involve a cellphone.

Both cordless phones and cellphones are very common, standard pieces of telecommunication equipment. The ALJ observed that "everyone in the room" had a cellphone. He observed that they are "unreliable." While that may or may not be true, it is not germane. Disconnections were not due to a cellphone "dropping" calls, rather they were caused by actions of the T-Netix system.

Where a telephone call is disconnected, Mr. Feigley must call back, thereby incurring an additional \$2.77 connection fee.

On other occasions the Feigleys' conversations have been interrupted by loud beeps and/or by noises which seem to originate with the guards eavesdropping on the call. This is especially true where they discuss the www.prisoners.com website or are critical of conditions or staff at SCI-Frackville.

On numerous occasions Mr. Feigley has been unable to use the phone system because it simply refuses to function. On the morning of 8 January 2005, for example, calls were impossible. Mr. Feigley was told only that the system was down. On several occasions Mr. Feigley's prepaid account information was not available to the system. On other occasions, the database of approved telephone numbers was unavailable. On the afternoon of 5 April 2005 the system had lost the PINs and wouldn't work. It was a bright, sunny day, no rain storm.

When Mrs. Feigley was plagued by problems with the system including the repeated disconnections, she called VSSI's customer service and spoke with a person identified only as Lisa. Lisa was very rude, unresponsive and unprofessional. She made no effort to investigate the problems. Rather she simply flatly and summarily refused to make refunds, see Feigleys' Exhibit 4.

On several occasions, Mrs. Feigley talked to Ms Ashelman the site administrator at SCI-Frackville. She would not investigate, make adjustments or refunds. These experiences reflect Mr. Feigley's inability to get good faith investigation or adjustments from Respondent DOC, see Feigleys' Exhibit 3a, b and c.

While the PUC is doubtless well aware of the range of cost for telephone service, the Feigleys find it averaging below 5¢ per minute and as low under a penny a minute. A recent ad in Time offered any place in the US for 1¢ per minute. Mrs. Feigley's

cellphone service which is considered expensive is less than 4¢ per minute. All of these rates are far far less than the Feigleys must pay to talk to one another over the monopoly prison system.

Respondents made representations about the cost of telephone service on pay phones. The prison phone system doesn't use pay phones. Indeed, cellphones have made the pay phone almost extinct. More to the point, an individual outside of prison has alternatives and needn't use a costly pay phone if she/he chooses not to. The representations made by Respondents are irrelevant to the present matter.

It should be mentioned that Respondent DOC has made at least one patently false representation to the Commission. In "Pennsylvania Department of Corrections' Objectionsto (sic) Motion for Subpoenas" dated 22 March 2005, the same date that Mrs. Feigley's telephone account was tampered with, DOC represents: "Ms. Ashelman, an employee of the Department of Corrections, performs her duties in accordance with the day-to-day operations and the security concerns of the institution." Besides being bureaucratic double talk, the assertion proved to be untrue.

Ms Ashelman testified that she was employed by ShawnTeck a subcontractor of Securus which is an alias for T-Netix and itself a subcontractor of Respondent VSSI...or maybe the Feigleys have some of the corporate web confused, who can keep the shell game straight! If DOC mislead the Commission about this fact, the rest of it representations lose credibility.

At the Frackville prison Robert Shannon is the DOC agent in control of the telephone system. He is the individual named as respondent in the Feigleys' complaint. His personal involvement is evidenced by Feigleys' Exhibit 3c.

Argument:

Fraud In Adding Call Forwarding

On 22 March 2005 soon after the Feigleys had asked for subpoenas for witnesses in this matter, someone had the call forwarding custom calling feature added to Mrs. Feigley's telephone service. This addition was not made by either of the Feigleys, nor by anyone acting in their behalf. It could only have been done by someone associated with Respondent VSSI or one of its partners.

This is a blatant fraud. It appears to have been perpetrated as a means of impugning the credibility of the Feigleys because one of their most persuasive arguments is that Mrs. Feigley has no custom calling features and therefore disconnections could not be because of their use.

Mrs. Feigley doesn't want and has never used such a feature. It must be removed from her service. Respondents are obliged to investigate this matter and take immediate remedial action. The service must be discontinued and fee refunded.

For the purposes of this complaint, the fraudulent addition of the call forwarding feature is probative evidence toward proving

other related allegations. It clearly reflects Respondents' business practices and ethics. Additionally, if Respondents are willing to falsify Mrs. Feigley's service, what else may they have falsified, altered or destroyed? Respondents simply can not be credited with any credibility in light of this fraud.

The Feigleys don't know how to proceed with an effort to expose whom precisely perpetrated the fraud. Clearly some remedial action is indicated.

The Department of Corrections
Is a Proper Party

DOC has argued that it is not a proper party, that the PUC lacks jurisdiction over it and that it is not a public utility. The converse is true.

The testimony and facts in this matter clearly show that the DOC is a business partner with VSSI and others providing a telephone service. The various parts of the partnership work with and assist one another, each providing part of the service. The DOC collects money for its partners and provides space and other services. Most importantly, it provides a truly captive pool of desperate customers. It shares in the profits from the business far in excess of any of its costs. By any definition DOC is involved in a profit making business; the business of providing a telephone utility not just to imprisoned persons, but equally to ordinary citizens such as Mrs. Feigley.

The PUC has jurisdiction over all public utilities. Even if the PUC lacks jurisdiction over the DOC as a whole, it has jurisdiction over its telephone utility business. A similar regulatory authority is found in the Department of Labor and Industry's authority to regulate the DOC in matters of the Fire and Panic Act and other safety matters.

In the matter at bar, the Feigleys have named an individual respondent. Even if PUC were construed to lack jurisdiction over DOC, it has jurisdiction over Robert Shannon and the individuals for whom he works.

Complete relief and complete resolution of the matters raised in the Feigleys' complaint cannot be had without the inclusion of the DOC.

The Prisoner Telephone System Comprises a Monopoly

The partnership of VSSI, DOC, T-Netix, its alias, Securus and others is a unique entity. Not only is it a public utility, but it is a monopoly. Other telephone service providers in the Commonwealth compete for customers and the customers have the right to choose among them. Such competitive businesses are free to charge whatever the traffic will bear.

It's different with a monopoly.

In exchange for freedom from competition, a monopoly is constrained. It may not charge whatever the traffic will bear. The PUC limits its fees and income to only a reasonable level.

The PUC examines the business and decides what is reasonable under the circumstances. Customers of the monopoly have input into the decision making process about what is reasonable.

While Verizon might be able to get away with gouging its customers \$2.77 to connect a call among persons in a free economy, VSSI and its partners do not have that freedom. Their customers cannot go to another carrier if prices are too high. They are stuck with the government created monopoly. That being the case, the monopoly must act in the public interest and charge only those fees which are reasonable and in the public interest.

Respondents are not acting in the public interest. Their fees and rates are not reasonable. Their business practices are not ethical and in the public interest. In fine, Respondents must be subjected to close oversight by the PUC with regard to fees, standards and practices.

The Fees Charged by Respondents Unlawfully
Burden The Feigleys' Constitutional
Right of Expression

The fees charged by the Respondents for telephone services are unreasonable. They impose a severe hardship on those persons including the Feigleys who are required to use the system in order to communicate by telephone with their imprisoned loved ones. Because the state is one of the partners in the service, the burden on the right of communication is a constitutional violation.

The burden is unreasonable and not justifiable as the least restrictive means possible.

Aside from the constitutional violation, the fees charged by the Respondents are unconscionable and exorbitant. They gouge huge sums from those in the Commonwealth who are least able to pay, some of the most impoverished citizens. It's inconsequential what someone may pay to use a pay phone in the free society. Mr. Feigley is paid only about \$15 a MONTH by the prison. He is not on an equal footing with a person in the free society. If he were free, he could decide if he chose to spent \$5.33 to make a phone call or if he would go to another provider. The rare use of a pay phone is very different from that being to only service available. To use a non-legal term, the fees are unfair!

It appears to the Feigleys that the fee should be 5¢ per minute or less for phone calls, 75¢ for a 15 minute call. Such a fee makes it possible for other carriers to make a bundle. Everything above that amount is unreasonable and should be refunded.

Disconnected Calls

The telephone technology provided by T-Netix or Securus, or whatever alias it's using to the Respondents is pure Rube Goldberg. Worse, it doesn't work. It disconnects telephone calls for no legitimate reason, a cough, the letter "s," a rain storm or the use of ordinary household phone equipment. What's worse, the system lies about why the disconnection is made. It never

blames itself. It always blames the innocent customer, generally pretending that the victim used three-way calling. It's all a dishonest dodge to avoid making refunds for the flaws in the system.

Disconnections are very common. The Feigleys enumerated many examples and they have been victimized by others as well.

The system was sold and is promoted under the pretext that it performs certain functions. Respondents know or should know that the system simply doesn't work.

One of the ploys used to shift the onus to the victim is to blame Mrs. Feigley or other customers for using cordless or cellphones. The simple fact is that both cordless and cellphones are ubiquitous, common, ordinary and widely accepted pieces of telephone equipment. A system which can't work with such standard instruments is defective per se.

If the use of a cordless phone makes the system disconnect, then the fault is with the system, not with the cordless phone. The system must be revised.

The same is true for cellphones. Obviously, Respondents' system is not responsible for calls dropped by a cellphone. It is, however responsible if it disconnects a call because a cellphone is in use. Millions of persons in Pennsylvania have and use cellphones. If the system operated properly, it would adjust for use to cellphones.

The Feigleys believe that there's a financial motive to the disconnection of calls. Each time the system disconnects a call and the customer reconnects, there is another lucrative \$2.77 connection fee. That's more than other carriers would receive for 10 completed calls.

Respondents' computer has been programmed to lie. It reports three-way calling when there's another cause for the disconnection or where the system doesn't know the real reason for the disconnection. The ALJ characterized this as a "default." The Feigley assert, however that it's intentional dishonesty. The system could just as easily have been programmed honestly to say it didn't know the reason for a disconnection rather than blame it on the customer. By blaming the customer Respondents can justify not making refunds - ah, the almighty dollar!

Within the past few months, a woman named Peoples who visited her husband at SCI-Frackville spoke to Mrs. Feigley about telephone disconnections. She told Mrs. Feigley that during a telephone conversation with her husband a guard's voice interrupted the conversation, told them they couldn't "talk like that" and disconnected the call. On another occasion, a prisoner at SCI-Huntingdon who was involved in a phone complaint told Mrs. Feigley that a guard had apologized to him for disconnecting a call.

Admittedly these incidents are hearsay, but they make the Feigleys believe that their calls may be disconnected not just

by a system which doesn't work properly, but also vindictively by members of the DOC staff.

Respondents should refund for reconnection of all the disconnected calls including for taxes, fees, etc. and the system should be revised to work properly or be scrapped.

Automatic Interruptions of Calls

The prison phone system automatically interrupts a 15 minute call five times with messages. That's unreasonable per se. The Feigleys cannot communicate while the messages play. That's unreasonable per se. The Feigley's are charged for the time while the messages are played. That's unreasonable per se.

The repeated interruptions invade conversations and disrupt one's train of thought. Charging the Feigleys for the interruptions violates well settled First Amendment law related to government speech. There seems to be no legitimate reason for the messages. Why keep repeating the same rant? A call can't be forwarded to a person unaware of its dreaded prison source. Who is the message intended to inform - and inform - and inform - and inform?

Respondents plead, ad nauseam, that these interruptions are desired by their business partner, DOC, and that the partnership is simply cooperating to give one partner what it wants. The Feigleys are unsure how such an excuse makes the interruptions any less unreasonable. Certainly nothing in the law requires

such frequent, redundant, annoying and costly interruptions. Nothing in the law requires that the parties' conversation be suspended or that the Feigleys be forced to pay to listen to a government message.

The interruptions should be discontinued, or, at the very least, reduced in number. The defective T-Netix technology should be revised to make the message whisper in the background and allow conversation to continue. The Feigleys should be refunded the cost of the time during which the government's message is force on them, at the rate of one minute per call; say 350 calls at 27¢, \$94.50 plus what ever taxes and fees would be tacked on to such a sum by the Respondents. Alternatively, the Feigleys would accept 350 minutes of talk time.

The Timing of Calls Is Inaccurate

The Respondents vend time; telephone usage time. They sell their service (and we use the term very loosely) at so much per unit of time. Under Pennsylvania practice, where a commodity is sold by measured unit (pound, gallon or second), the vendor must certify that the pound is really a pound or the second is really a second.

The time that Respondents vend is quite costly. For a collect call of 15 minutes duration, the average cost, taking into account connection gouge, fees, "taxes," et cetera is about 52¢ per minute, .86¢ per second. If the timing is short by a mere 10 seconds,

that amounts to an overcharge of 8.6¢ per call or, for the 350 calls a year, an overcharge of over \$30. If the same injury were suffered by each of the 42,000 state prisoner, the overcharge would amount to over \$1,260,000.00.

So, while a few seconds may sound like a trifling concern, for the prison phone monopoly it's a lot of money, almost \$3500 per day! This gives one an idea of the huge sum collected by the monopoly for all prisoner calls; a cornucopia!

Presently the Feigleys are billed by the minutes for their conversation. Given the high price of the service, timing by the minute is unreasonable. A second can cost 52¢. A one second error in timing may cost the Feigley's over half a buck and pad Respondents coffers by an equal half a buck. That's unreasonable.

Billing should be done in 1/10 minute (6 second) intervals. That would reduce the injury done to the customer and make timing more honest. That's what a reputable firm would be doing of its own volition. Given the fact that Respondents comprise a monopoly and must act in the public interest, 1/10 minute billing intervals appears to be mandatory under the circumstances.

The timing of the telephone calls should be independently certified at regular intervals, at least quarterly through the use of a time standard such as WWV. The Feigleys should be refunded for the value of the time for which they were overcharged, \$30.10. Alternatively, the Feigleys would accept 58 minutes of free talk time.

The Telephone Censoring Technology
Is a Defective Product

The facts and testimony establish that, by a preponderance of the evidence, the T-Netix technology used by the phone monopoly is defective. What's more, it's dishonest. While no equipment works flawlessly, reputable firms acknowledge and make amends for technological flops. The Respondents in the case at bar hide and lie about the shortcomings of their technology. They blame the innocent customer.

The Respondents know or should know that the technology is defective. The PUC and ALJ must be aware of some of the defects in the technology simply from the many dozens of complaints they've received. Respondents have shown a complete unwillingness to act responsibly and make the technology reliable, perhaps out of fear that it would reduce their enormous profits. The Feigleys' suggestion is to turn the problem over to Apple Computer. It would be solved in a few days.

Without repeating the long list of defects stated in the facts section, supra, clearly the technology must be reengineered and revised to be honest. The Feigley's should be refunded for their costs related to the defective product.

If this were a water utility which didn't give water or measured it incorrectly, or an electric utility which shut down if the customer coughed, the PUC would order that the technology

be revised to do what it purports to do. It should be no less true for the prison telephone monopoly.

The \$3.99 Fee For The
Privilege Of Being Allowed To Pay One's Bill

Respondents' business partner and agent, T-Netix, bills Mrs. Feigley for the calls she receives from her imprisoned husband. To pay the bill she must also pay a premium of \$3.99. On a one hundred dollar bill that amounts to a 4% premium for the privilege of giving money to T-Netix. That's got to be a racket!

The charge is just another illegal and improper business practice of the Texas firm. Indeed, there may be a federal claim here against those bandits, but that aside, the \$3.99 Bill-Paying-Privilege-Charge is unreasonable, disgraceful and unjustifiable. It amounts to extortion reminiscent of the schemes of old-time mobsters. The practice should be discontinued and those fees which have been collected must be refunded. The PUC should reconsider whether or not T-Netix should be allowed to do utility related business in Pennsylvania.

The Bills are Unreasonable

Mrs. Feigley receives phone bills from both Verizon and T-Netix even though she doesn't want to do business with T-Netix. The bill from T-Netix is impossible for the Feigleys to audit with any degree of confidence. It is complex, apparently intentionally so and loaded with charges which are unclear and

may be improper. Some of the charges seem to duplicate charges made by Verizon.

Why is T-Netix billing Mrs. Feigley in the first place? What legitimate involvement does it have in the transaction? VSSI is quite capable of billing for itself or its parent, Verizon, could do it. The T-Netix involvement seems to stem from pure coercion: do business with them or lose contact with her husband.

There is no legitimate reason for third party billing. It only further increases the cost to the Feigleys. It should be stopped. Mrs. Feigley should be allowed to pay VSSI or Verizon directly without added fees or arcane charges. The bills should be honest, straightforward and easily comprehensible.

Customer Service

Lisa is an example of the customer service of VSSI: rude, unresponsive, unwilling to investigate problems or make adjustments. Complicating the matter, even Lisa was remote, difficult to access and anonymous.

Similarly, Ms Ashelman who is certainly not rude, is also unwilling or unable to make account adjustments or refunds. She is compelled by her employer's relationship with the Respondents to pretend that what even the computer tells her is true. She admitted, however that she realizes that other problems may exist.

Respondents must have a readily accessible and businesslike customer service person. Respondents' customer service must be

able to investigate problems, be equipped to have problems corrected and to make refunds or adjustments. In other words, the prison telephone monopoly must provide at least the level of service provided by other telephone carriers.

Fraud

The evidence established that Respondents know or should know that the system which they've foisted off on the public doesn't work as they pretend it works. They have promoted it to government and imposed it upon prisoners and their families under false pretenses. They pretend that the technology is flawless. It is anything but.

These business practices amount to fraud. The system is defective and Respondents lie to shift blame for the defects to the customer.

The PUC is obliged to examine a utility's business practices. Where fraud is shown, the Commission is obliged to correct the problem or to have it investigated by the state police or Attorney General.

In the case at bar, Respondents could rectify much of the problem by simply acknowledging that the technology is junk and make the good faith changes, adjustments and refunds they should make. Think of the legal fees that would save from having to defend the defective T-Netix system.

Instead of pretending that the technology actually works and selling it under those pretenses, Respondents might say that the technology works "sometimes" or even "often," but has flaws. It's similar to the way that Pfizer promotes drugs: maybe the pill will firm things up, but if it persists for four hours, brother look out!

Respondents should be required to represent their product truthfully and accurately.

The State Utility

While there's nothing illegal per se about state government providing a utility service, the authority for such involvement must come specifically from the legislature. The DOC is NOT in the utility business. It is not in the business of making a profit from vending or helping to vend telephone service. It is certainly not in the business of gouging prisoners' families, at least not legitimately in such businesses.

In its regulatory capacity the PUC must judge what is a fair and reasonable profit for a monopoly utility to make. In that capacity, it should not condone DOC making any profit from a phone business. What could justify such a profit? The situation is similar to a municipal water utility. Fees must not exceed actual costs.

The Commission should examine DOC's involvement in the utility business and curtail its income to nothing more than a recovery of costs if any.

Apparently some of the monopoly's profits flow directly into the state General Fund. This kickback seems to be in the nature of a bribe or corrupt inducement to get business, a practice not permissible in America, but common in some corrupt third-world nations. In other words, the Feigleys and other prisoners and their families must pay a special tax levied only on them. That practice violates Article V of the Pennsylvania Constitution and has never been authorized by the legislature. The PUC must regulate the financial activities of the monopoly so that it comport with the law and the Constitution.

Relief:

Perhaps it's time to take decisive action to stem the flood of complaints about the prison telephone monopoly and to finally correct the problems if only in the interests of judicial economy and common sense. Pecking at details has not induced these Respondents to act responsibly. Their profits are simply too gigantic. A comprehensive solution is called for. Toward that end, Complainants ask for the following relief.

1. Enter an order requiring VSSI and/or its parent and/or partners to disclose who exactly had the call forwarding service added to Mrs. Feigley's telephone account without her consent

and why. Require the removal of the service and the refund of all charges related to the service. In addition, PUC should consider the conduct as a fraud.

2. Enter a declaratory judgment that DOC is and has been engaging in a profit making public utility business within the meaning of the Public Utility laws, that such business is within the purview of the PUC to regulate and that DOC is part of a business monopoly.

3. Enter an order reviewing DOC's utility business and limiting its income from that business to only what is reasonable and necessary to pay actual costs, the order to require the refund of all income in excess of actual costs to the individuals who paid it including the Feigleys.

4. Enter a declaratory judgment that Respondents along with their partners, subcontractors and agents constitute a monopoly providing telephone utility service to prisoners and the persons the prisoners call. The judgment to declare that the monopoly must conduct its business in the public interest and limit its fees, rates and income to only what is reasonable.

5. Enter a declaratory judgment that Respondents are not acting in the public interest, that their rates and fees are unreasonable and that their business practices and deceptions are not in the public interest.

6. Enter a declaratory judgment that Respondents' rates and fees impermissibly burden the Feigleys' Constitutional right

of expression.

7. Enter an order that Respondents' rates and fees must be reduced to a reasonable level, approximately 5¢ per minute, that everything collected by the monopoly in excess of those rates be returned to the Feigleys or \$5.80 times about 350 calls during the past year, being \$2030.

8. Enter a declaratory judgment that Respondents' technology frequently disconnects telephone calls for no legitimate reason, simply because the technology is defective.

9. Enter an order requiring the refund of the reconnection fees for all the calls disconnected by the system, being \$2.77 times about 15 calls or \$41.55.

10. Enter a declaratory judgment that the frequent interruption of calls with automated messages is unreasonable, unwarranted and costly.

11. Enter an order require that the interruptions be reduced in frequency, be avoidable or be able to be talked over and that the Feigleys not be charged for the time the messages are playing. The order should further requite the refund of the cost for all the time during which the messages have played or 27¢ times about 350 calls during the last year, being \$94.50 plus whatever taxes and fees were charged on that sum.

12. Enter an order requiring Respondents to reengineer or otherwise correct and amend its technology to limit illegitimate disconnection of calls and to report honestly the reason for

disconnections. In the alternative, to replace the technology with human beings.

13. To enter an order requiring Respondents and their agents and subcontractors to repair and correct the flaws in their technology to:

A. assure that calls are accurately timed and that timing be certified for accuracy at least twice a year,

B. assure that calls not be improperly terminated,

C. assure that the money deposited by Mr. Feigley to prepay telephone calls be available to him to use,

D. assure that the database of approved telephone numbers and the database of PI numbers be available so that calls may be made,

E. assure that "blocks" not be improperly placed on telephone numbers.

14. Enter an order requiring that the timing of prisoner telephone calls be done in six second or 1/10 minute intervals and to bill the calls on that basis.

15. Enter a declaratory judgment that the telephone censoring technology is a defective product within the meaning of the law and that Respondents know or should know that it's defective.

16. Enter an order requiring the refund of all the \$3.99 Bill-Paying-Privilege-Charges and that the charge be discontinued in future.

17. Enter an order that the bills for telephone service uttered by the monopoly be honest, straightforward and easy to comprehend, the order to direct VSSI and/or Verizon to bill Mrs. Feigley directly without the use of a third party billing agent.

18. Enter an order requiring Respondents to conduct customer service for both prisoners and their families in such a way that customer services is readily available without long waits or searching, that customer service personnel deal in good faith with complaints and make investigations, adjustments and refunds promptly where indicated, customer service to be businesslike and polite.

19. Enter a declaratory judgment that respondents are and have been perpetrating fraud with respect to the operation of the prisoner telephone monopoly.

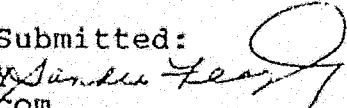
20. Enter an order requiring Respondents, their partners and subcontractors to discontinue fraud and fraudulent practices and to conduct business honestly including making honest representations about the flaws and shortcomings of their technology.

21. Such other and additional relief as is necessary to effect justice and to be in the public interest.

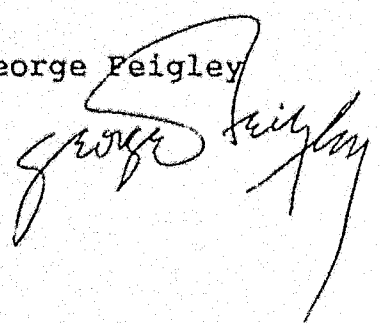
Conclusion:

The present brief was prepared from notes and memory without the benefit of a hearing transcript. It may contain inadvertent errors. In the same way, the Feigleys are not attorneys and they are unlearned in the law. Their presentation of their case and of the present brief should be liberally construed to effect substantial justice.

Wherefore, for the foregoing reasons and in the interests of justice, Sandra and George Feigley ask that their complaint be sustained and that they be given the relief they seek.

Respectfully Submitted:
Sandra Feigley 
sf@prisoners.com
717-236-6045

Date: 17 May 2005

George Feigley 

Date: 8 May 2005

Sandra and George Feigley,
Complainants
v
Verizon Select Service, Inc.
and Department of Corrections
by Robert Shannon
Respondents

Number: C-20043621

DOCKETED
MAY 26 2005

Motion for Subpoenas
Pursuant to 52 PaCode 5.421

DOCUMENT
FOLDER

1. On or about 21 August 2004 Sandra Feigley (hereinafter "Mrs. Feigley"), a Pennsylvania citizen who receives telephone calls from Pennsylvania state prisoners, and her husband, George Feigley (hereinafter "Mr. Feigley"), a prisoner at State Correctional Institution at Frackville (hereinafter "SCI-Frackville") instituted a formal complaint against Verizon Select Services, Inc. and the Department of Corrections (hereinafter "DOC") the partnership which operates and profits from the state-granted telephone monopoly which prisoners and their families are constrained to use.

2. On 3 February 2005 Administrative Law Judge Louis G. Cocheras scheduled a "telephonic/video conference hearing" on the complaint for 10 AM Friday, 6 May 2005.

3. To establish their claims the Complainants ask the Commission to issue three subpoenas to compel the attendance, and testimony as well as the production of documents of/by the three persons evidenced by the herewith pro forma subpoenas.

KJR

Each of these witnesses has germane and probative evidence which comports with the Pennsylvania Rules of Evidence.

4. In anticipation of the preparation of these subpoenas, Mr. Feigley made a good faith effort to communicate with Peter Damiter, Administrative Assistant to Superintendent Robert Shannon at SCI-Frackville, to workout exactly where within the prison and how the conference would be held so that witnesses could be informed as to place. Acting for the Respondent DOC, Mr. Damiter refused good faith cooperation and would not specify the place within the prison where witnesses should appear. Therefore, the subpoenas require attendance of the witnesses "at the place within SCI-Frackville concealed by Peter Damiter."

5. Complainants propose to subpoena Amanda Ashelman, Telephone Coordinator, SCI-Frackville, 1111 Altamont Blvd., Frackville PA 17931 to testify to

A. what actions she takes when she receives a complaint from Mr. Feigley or another prisoner that the telephones have disconnected calls,

B. what authority she has to make refunds for errors made by the system and what refunds she's authorized during the past year,

C. how many complaints she's received during the past year of problems, disconnections and similar irregularities with the phone monopoly,

D. the number of errors made during that period of time by the automated system,

E. what measures she takes to assure that telephone calls are accurately timed and billed and

F. the number, nature and verbatim content of messages interjected into telephone conversations by the telephone monopoly's automated system and their total duration in time along with the inability of a caller to communicate during the messages. In addition the witness will produce such records as are necessary to testify fully and accurately and all the documents from either Respondent or from T-Netix instructing her how to deal with complaints about the system including instructions from security officials, if any.

6. Complainants propose to subpoena Dennis Durant, the so-called Intelligence Captain in charge of security including telephone security at SCI-Frackville, 1111 Altamont Blvd., Frackville PA 17931 to testify that:

A. all telephone calls made by Mr. Feigley are recorded,

B. how the guards who censor the telephone calls and adjust the "sensitivity" of the system disconnect calls,

C. what instructions are given to prison guards to disconnect telephone calls,

D. any examination of the eavesdropping recordings made of Mrs. or Mr. Feigley's conversations indicate the use of call-forwarding or three-way calling,

E. exactly who and under what conditions any person has access to the content of the conversations between husband and wife.

In addition, the witness will produce all documents necessary for him to testify fully and accurately.

7. Complainants propose to subpoena John McAndrews, AF 9458, a prisoner at SCI-Frackville, 1111 Altamont Blvd., Frackville, PA 17931, to testify to:

A. his having had many problems with the monopoly's automated system,

B. having sought redress in all possible ways without success and

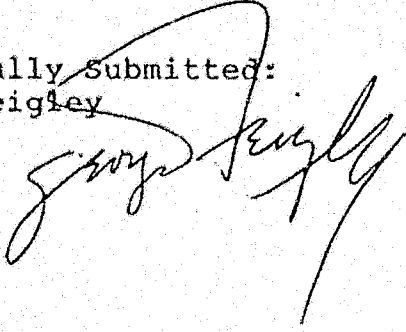
C. the cost to himself and his loved ones of the disconnections and improper timing of the automated system.

In addition the witness will bring with him all documents necessary for him to testify fully and accurately.

8. **NOTICE:** Each party and each individual who is being subpoenaed, is hereby notified that an answer or objection to this application shall be filed with the Commission and ALJ Louis G. Cocheras, Box 3265, Harrisburg, PA 17105-3265, 717-783-5452, within ten (10) days of service.

Wherefore, the Complaints pray the Commission to issue the subpoenas they seek.

Respectfully Submitted:
George Feigley

A handwritten signature in black ink, appearing to read "George Feigley", written over the typed name.

Date: 10 March 2005

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley, :
Complainants :
v :
Verizon Select Service, Inc. :
and Department of Corrections :
by Robert Shannon :
Respondents :

Number: C-20043621

Subpoena to Attend and Testify

TO: Amanda Ashelman

1. You are ordered by the Public Utility Commission to come to the place within SCI-Frackville concealed by Peter Damiter at 1111 Altamont Blvd., Frackville, PA 17931 on 6 May 2005 at 10 AM to testify for the above named Complainants and to remain until excused.

2. And bring with you the following: such records as are necessary for you to testify fully and accurately and all the documents in your possession from either Respondent or T-Netix instructing you how to deal with complains by prisoners or their families about the telephone system.

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including, but not limited to costs, attorney fees and imprisonment.

Requested by: Sandra Feigley
Box 15541
Harrisburg, PA 17105
717-236-6045
sf@prisoners.com

By the Commission

Date: _____

By: _____

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley, :
Complainants :
v :
Verizon Select Service, Inc. :
and Department of Corrections :
by Robert Shannon :
Respondents :

Number: C-20043621

Subpoena to Attend and Testify

TO: Dennis Durant

1. You are ordered by the Public Utility Commission to come to the place within SCI-Frackville concealed by Peter Damiter at 1111 Altamont Blvd., Frackville, PA 17931 on 6 May 2005 at 10 AM to testify for the above named Complainants and to remain until excused.

2. And bring with you the following: such records as are necessary for you to testify fully and accurately.

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including, but not limited to costs, attorney fees and imprisonment.

Requested by: Sandra Feigley
Box 15541
Harrisburg, PA 17105
717-236-6045
sf@prisoners.com

By the Commission

Date: _____

By: _____

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley,	:	
Complainants	:	
v	:	Number: C-20043621
Verizon Select Service, Inc.	:	
and Department of Corrections	:	
by Robert Shannon	:	
Respondents	:	

Certificate of Service

I, the undersigned, certify that I am this day serving true and correct copies of the herewith motion and pro forma subpoenas by first class mail, postage prepaid upon the following persons:

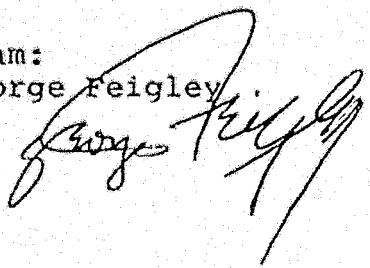
Todd S. Stewart, Esq.
Hawke McKeon Sniscak & Kennary
Box 1778
Harrisburg, PA 17105-1778

William E. Fairall, Jr., Esq.
Deputy Chief Counsel
55 Utley Drive
Camp Hill, PA 17011

Amanda Ashelman
1111 Altamont Blvd.
Frackville, PA 17931

Dennis Durant, Captain
1111 Altamont Blvd.
Frackville, PA 17931

John McAndrews, AF 9458
1111 Altamont Blvd.
Frackville, PA 17931

I am:
George Feigley


Date: 11 March 2005

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley,
Complainants

v

Verizon Select Services, Inc.
and Department of Corrections
by Robert Shannon

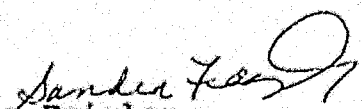
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Number C-20043621

Amended
Certificate of Service

I, the undersigned, certify that I am, this day, serving a true
and correct copy of the herewith motion and pro forma subpoenas
by first class mail, postage prepaid upon the following person:

John McAndrews, AF 9458
1111 Altamont Blvd.
Frackville, PA 17931

I am: 
Sandra Feigley
sf@prisoners.com
717-236-6045

Date: 25 March 2005

SECRETARY'S BUREAU
P.U.C.

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FILED

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SANDRA AND GEORGE FEIGLEY, :

Complainants, :

v. :

No. C-20043621

VERIZON SELECT SERVICES, INC. :
AND DEPARTMENT OF :
CORRECTIONS BY ROBERT :
SHANNON, :

Respondents. :

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PENNSYLVANIA DEPARTMENT OF CORRECTIONS'
OBJECTION TO MOTION FOR SUBPOENAS

The Pennsylvania Department of Corrections ("Department"), by and through Deputy Chief Counsel William E. Fairall, Jr. ("Counsel") respectfully objects to the issuance of Subpoenas to Sandra and George Feigley ("Feigleys"), Complainants in the above matter and in support thereof avers as follows:

1. The Complainants request issuance of a Subpoena for Amanda Ashelman, Telephone Coordinator at the State Correctional Institution at Frackville ("SCI-Frackville"); Dennis Durant, Intelligence Captain at SCI-Frackville; and John McAndrews, AF-9458, an inmate incarcerated at SCI-Frackville.

2. The Department of Corrections respectfully submits that it is not an appropriate party or Respondent to Feigleys' Complaint; that it is not a public

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utility and not otherwise subject, as an executive agency of the Commonwealth, to the jurisdiction and authority of the Pennsylvania Public Utility Commission.

3. None of the areas of inquiry suggested by Feigleys with respect to Amanda Ashelman relate to relevant and appropriate matters of inquiry with respect to the Department of Corrections as an executive agency of this Commonwealth. Ms. Ashelman, an employee of the Department of Corrections, performs her duties in accordance with the day-to-day operations and the security concerns of the institution. How she handles the various aspects of her position are not relevant matters of concern to Feigleys nor are they subject to the jurisdiction and authority of the Public Utility Commission.

4. Dennis Durant is the Intelligence Captain at SCI-Frackville and is concerned primarily with the security of the institution and the safety of staff, inmates and the general public. His position calls for an acute understanding and sensitivity to the day-to-day operations of the prison and none of Feigleys areas of inquiry are relevant to any claims that would be within the jurisdiction and authority of the Public Utility Commission.

5. John McAndrews, AF-9458 is an inmate incarcerated at SCI-Frackville. His alleged problems with respect to the telephone system at SCI-Frackville as far as they may relate to SCI-Frackville, are subject to a comprehensive inmate grievance procedure. Inmate McAndrews may and must

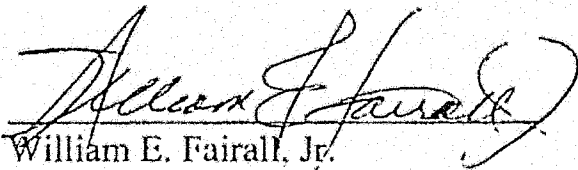
avail himself of this grievance system the same as any other inmate within the system. The consolidated inmate grievance system provides all the due process to which an inmate is entitled, and exhaustion of administrative remedies is a prerequisite to filing either a 1983 civil rights action or any similar claim in state court. It is respectfully submitted that none of the areas of inquiry noted by Feigleys would give rise to admissible evidence or relevant information against the Department as an executive agency. Further the Public Utility Commission has no jurisdiction or authority over the Department in this matter.

6. Counsel for the Department received a Certificate of Service dated March 11, 2005, in an envelope stamped March 15, 2005 and received on March 16, 2005. It is respectfully submitted that these objections are filed within the relevant time-period. It is further submitted that Feigleys have proffered no relevant or legal basis on which to subpoena employees of the Department of Corrections or inmates incarcerated within the Department of Corrections with regard to the alleged operation of a telephone system totally contained within SCI-Frackville, an executive agency.

WHEREFORE, it is respectfully requested that the Public Utility Commission refrain from issuing the requested Subpoenas in this matter.

Respectfully submitted,

Office of General Counsel

By: 
William E. Fairall, Jr.
Deputy Chief Counsel
Attorney I.D. No. PA20840
Pennsylvania Department of Corrections
55 Uiley Drive
Camp Hill, PA 17011
717-731-0444

Dated: March 22, 2005

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SANDRA AND GEORGE FEIGLEY, :

Complainants, :

v. :

VERIZON SELECT SERVICES, INC. :
AND DEPARTMENT OF :
CORRECTIONS BY ROBERT :
SHANNON, :

Respondents. :

No. C-20043621

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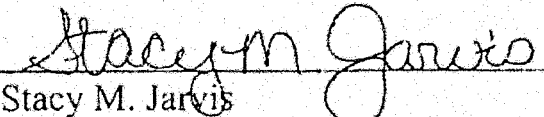
CERTIFICATE OF SERVICE

I undersigned hereby certifies that a true and correct copy of the Pennsylvania Department of Corrections' Objections to Motion for Subpoenas in this matter was served upon the person(s) in the manner indicated below.

Service by first-class mail
addressed as follows:

Sandra and George Feigley
P.O. Box 15541
Harrisburg, PA 17105

Todd S. Stewart, Esquire
Hawke McKeon Sniscak & Kennard, LLP
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105-1778



Stacy M. Jarvis
Clerical Supervisor
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: March 22, 2005

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SANDRA AND GEORGE FEIGLEY, :

Complainants, :

v. :

No. C-20043621

VERIZON SELECT SERVICES, INC. :
AND DEPARTMENT OF :
CORRECTIONS BY ROBERT :
SHANNON, :

Respondents. :

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REGISTRATION

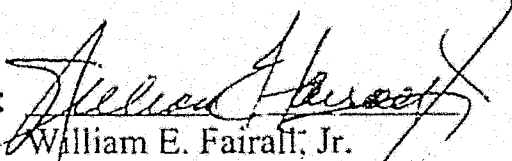
NOTICE TO PLEAD

TO: Sandra and George Feigley
P.O. Box 15541
Harrisburg, PA 17105

Pursuant to 52 Pa. Code §§ 5.62 and 5.63, you are hereby notified that, if you do not file a written response denying or correcting the enclosed Answer and New Matter of Pennsylvania Department of Corrections within twenty (20) days from service of this notice, the facts set forth by the Pennsylvania Department of Corrections in the Answer and New Matter may be deemed to be true, thereby requiring no other proof. All pleadings such as a Reply to the Answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on the undersigned counsel for the Pennsylvania Department of Corrections.

Respectfully submitted,
Office of General Counsel

DOCUMENT
FOLDER

By: 
William E. Fairall, Jr.
Deputy Chief Counsel
Attorney ID No. PA20840
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: March 22, 2005

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SANDRA AND GEORGE FEIGLEY, :

Complainants, :

v. :

VERIZON SELECT SERVICES, INC. :
AND DEPARTMENT OF :
CORRECTIONS BY ROBERT :
SHANNON, :

Respondents. :

No. C-20043621

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SELECT SERVICES BUREAU

ANSWER AND NEW MATTER OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

Moving Respondent, Pennsylvania Department of Corrections ("Department"), by and through Deputy Chief Counsel William E. Fairall, Jr. ("Counsel") hereby answers the Complaint of Sandra Feigley and George Feigley ("Feigleys") and in support thereof avers as follows:

1. **ADMITTED IN PART; DENIED IN PART.**

The Department **ADMITS** that George Feigley is incarcerated at the State Correctional Institution at Frackville ("SCI-Frackville") which is located in Schuylkill County. The Department is without sufficient knowledge or information to determine whether the Post Office Box Number (15541) represents a residence for Sandra Feigley and strict proof of same is demanded at time of trial if relevant.

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2. **DENIED AS STATED.**

The Department **ADMITS** that Feigleys named Verizon Select Services, Inc. ("VSSI") and the Department of Corrections by Robert Shannon as Respondents. The Department specifically **DENIES** any partnership with VSSI; **DENIES** that the Department, as an executive agency, is an entity over which the Public Utility Commission has jurisdiction; and further **DENIES** that the Department is an appropriate Respondent in this matter.

3. **DENIED.**

The Department **DENIES** generally that the telephone system operating at SCI-Frackville is defective or that the Department has promoted or otherwise sold it in a fraudulent manner and strict proof of same is demanded at time of trial if relevant. The Department further **DENIES** that the telephone service at SCI-Frackville disconnects incoming and/or outgoing calls habitually. By way of further answer, the Department joins in the Answer submitted by ("VSSI") filed to Feigleys' Complaint in October 2004. By way of further answer, the Department **ADMITS** that according to Pennsylvania law¹, an announcements is made at the beginning of

¹ 166 Pa.C.S. § 2907(a).

each telephone call informing the party called that the telephone call originated from a prison, and that the call may be monitored or recorded. It is further **ADMITTED** that depending upon the length of the telephone, that this three or four second message may be repeated one or two times in the background. The Department further **DENIES** that any service charges made or imposed are unreasonable or exorbitant.

4. The allegations contained in paragraph 4 of Feigleys' Complaint essentially requests relief to which no response is required. The Department agrees with VSSI that the Pennsylvania Public Utility Commission is without jurisdiction to terminate the service provided by VSSI pursuant to a contract between VSSI and the Department of General Services of the Commonwealth of Pennsylvania, since the provisions of that contract are not within the jurisdiction of the Pennsylvania Public Utility Commission.² Finally the Department avers that any allegations made by Feigley regarding billing fees are outside the jurisdiction of the Pennsylvania Public Utility Commission and incorporate by reference herein, as if set forth in full, footnote number three contained in VSSI's Answer to Feigleys' Complaint.

² *Feigley v. AT&T Communications of Pennsylvania, Inc.*, Docket No. C-00981434 (Opinion and Order entered April 20, 2001, at p. 21).

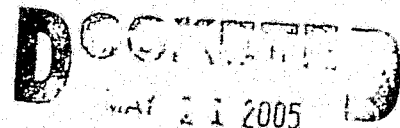
NEW MATTER

Pursuant to 53 Pa. Code § 5.62(b), the Department raises an affirmative defense by way of New Matter and avers as follows:

5. The Department joins in the affirmative defense of *res judicata* raised by VSSI in paragraphs one through four of the New Matter contained in VSSI's Answer to Feigleys' Complaint.
6. Absent the violation of a Constitutional right or of a state-created liberty interest, the Public Utility Commission has no authority or jurisdiction over the Pennsylvania Department of Corrections. To the extent that Feigleys request mandamus relief from the Department, exclusive jurisdiction of mandamus and injunctive actions against a state agency lies with the Commonwealth Court.³
7. Feigleys have failed to set forth any factual averment or other basis establishing that they have a Constitutional or statutory right to telephone conversations within a prison setting.
8. Feigleys have failed to aver and/or to establish that there is any viable or legitimate state-created liberty interest in inmate telephone service.
9. The Department is responsible for the care, custody and control of approximately 41,000 in 27 institutions statewide.

³ 42 Pa.C.S.A. § 761

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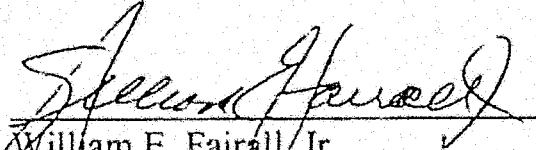
10. Matters involving the day-to-day operation of an institution such as SCI-Frackville are exclusively within the domain of the prison administration.
11. The security of each institution, its staff, inmates and the general public is a concern unique to the Pennsylvania Department of Corrections.
12. The Pennsylvania Department of Corrections is not a public utility.

WHEREFORE, the Department respectfully requests that the Complaint of Sandra Feigley and George Feigley be denied with prejudice or that the Commission dismiss Feigley's complaint preliminary in its entirety.

Respectfully submitted,

Office of General Counsel

By:



William E. Fairall, Jr.

Deputy Chief Counsel

Attorney I.D. No. PA20840

Pennsylvania Department of Corrections

55 Utley Drive

Camp Hill, PA 17011

717-731-0444

Dated: March 22, 2005

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SANDRA AND GEORGE FEIGLEY, :

Complainants, :

v. :

VERIZON SELECT SERVICES, INC. :
AND DEPARTMENT OF :
CORRECTIONS BY ROBERT :
SHANNON, :

Respondents. :

No. C-20043621

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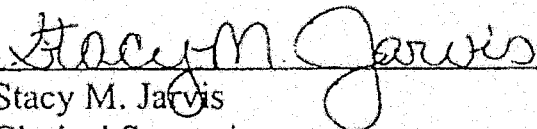
CERTIFICATE OF SERVICE

I undersigned hereby certifies that a true and correct copy of the Answer and New Matter of Pennsylvania Department of Corrections to Complaint in this matter was served upon the person(s) in the manner indicated below.

Service by first-class mail
addressed as follows:

Sandra and George Feigley
P.O. Box 15541
Harrisburg, PA 17105

Todd S. Stewart, Esquire
Hawke McKeon Sniscak & Kennard, LLP
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105-1778



Stacy M. Jarvis
Clerical Supervisor
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: March 22, 2005

ORIGINAL

Hawke



McKeon



Sniscak &



Kennard LLP

ATTORNEYS AT LAW

William T Hawke
Kevin J. McKeon
Thomas J. Sniscak
Norman James Kennard
Lillian Smith Harris
Scott T. Wyland
Todd S. Stewart

Craig R. Burgraff
Steven D. Snyder
Janet L. Miller
Steven K. Haas
William E. Lehman
Rikardo J. Hull
Katherine E. Lovette

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsk-law.com

March 23, 2005

DOCUMENT
FOLDER

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
North Office Building, Filing Room - B20
Harrisburg, PA 17105-3265

Re: Sandra Feigley and George Feigley v. Verizon Select Services Inc.;
Docket No. C-20043621; VERIZON SELECT SERVICES INC.'S
OBJECTION TO SUBPOENAS OF SANDRA AND GEORGE FEIGLEY

Dear Secretary McNulty:

Enclosed, for filing with the Commission are the original and three (3) copies of the Verizon Select Services Inc.'s ("VSSI") Objection to Subpoenas of Sandra Feigley and George Feigley in the above-captioned proceeding.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Very truly yours,

Todd S. Stewart
Counsel for Verizon Select Services Inc.

TSS:tap
Enclosures

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2005 MAR 23 PM 1:42
SECRETARY'S BUREAU

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Sandra Feigley and George Feigley,
Complainant

v.

Verizon Select Services Inc.,
Respondent

Docket No. C-20043621

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**VERIZON SELECT SERVICES INC.'S
OBJECTION TO ISSUANCE OF SUBPOENAS
OF SANDRA AND GEORGE FEIGLEY**

**DOCUMENT
FOLDER**

Verizon Select Services Inc. ("VSSI"), by and through its counsel in the above-captioned proceeding, Hawke McKeon Sniscak & Kennard LLP, hereby Objects to the issuance of Subpoenas as requested by Complainants.

1. On March 16, 2005, VSSI received a copy of a Motion for Subpoenas filed by Complainants Sandra and George Feigley, proposing to subpoena three (3) individuals: Amanda Ashelman, Dennis Durant and John McAndrews (AF 9458). The motion requests, in addition to compelling the attendance of the three named individuals, that those named individuals also bring certain generally described documents to the hearing. None of the named individuals are employees of VSSI.

2. By Notice dated February 3, 2005, this matter was assigned to the Honorable Administrative Law Judge Louis G. Cocheres for resolution. An initial hearing has been scheduled for May 6, 2005, by video conference. Importantly, that notice also requires, as is

standard procedure for hearings that are not in-person, that all documents that any party intends to present as evidence be provided, in advance to the Presiding Administrative Law Judge and all other parties. The purpose of this advance-provision procedure is to ensure that parties have an opportunity to have those documents for review so that at the hearing there is no surprise or ambush, and so that the hearing can be conducted smoothly. If the named individuals bring documents to the hearing, there will be no opportunity for any meaningful review of those documents, counsel would have limited opportunity to offer objections and the whole process would be disrupted. For this reason, VSSI objects to the broad issuance of the subpoenas, as requested.

3. The Subpoena request seeks to compel the attendance of Mr. Durant, an employee of the Department of Corrections. As described in the request, the entirety of the testimony sought, focuses on Mr. Durant's duties as an official of the Department of Corrections. Mr. Durant's actions in fulfilling that role are controlled by the Department of Corrections. The Public Utility Commission previously has concluded that it has no jurisdiction to adjudicate the merits of the contract by which the department of corrections receives the telephone service at issue in this case.¹ The case where that determination was reached involved the same Complainants, and was appealed to the Commonwealth Court where the Commission was sustained.² If the Commission cannot adjudicate issues involving the contract, it most certainly cannot adjudicate issues regarding the procedure by which the Department of Corrections

¹ *Sandra L. Feigley v. AT&T Communications of Pennsylvania, Inc.*: Docket No. C-00981434 (Opinion and Order entered April 20, 2001).

² *Feigley v. Pa. P.U.C.*, 794 A.2d 428, at note 5 (Pa. Cmwlth. 2002).

enforces its own rules regarding inmate use of telephone service. Accordingly, VSSI objects to the subpoena request for Mr. Durant.

4. The Complainants also seek to compel the testimony of Mr. John McAndrews, an inmate at the State Correctional Institution-Frackville. However, it does not appear to VSSI that Mr. McAndrews has filed a separate complaint or is a party to the Complaint filed by the Feigleys in this docket. The testimony demanded of Mr. McAndrews by the Notice of Subpoena would be irrelevant to the allegations in the Feigley's Complaint. The Feigleys are only able to represent only their own interests in a Complaint proceeding before the Pennsylvania Public Utility Commission. Mr. McAndrews' alleged experiences with regard to the telephone system provided for the benefit of the inmates at SCI-Frackville is relevant only to Mr. McAndrews and not to the Feigleys. Therefore, no subpoena should be issued for Mr. John McAndrews.

5. The Subpoena request also seeks to compel the testimony of Amanda Ashelman, but not state any reason why Ms. Ashelman might have the information described. Her employer is not identified. It is not clear whether Ms. Ashelman is an employee of SCI-Frackville or some other entity. If she is a DOC employee, the request should be denied for the same reasons as the request to compel the testimony of Mr. Durant. If Ms. Ashelman is employed by some other entity it is not clear what connection she might have to any service that is jurisdictional to the Commission. In short, the Subpoena request is wholly insufficient to the task of supporting the need for compelling Ms. Ashelman to testify.

6. None of the individuals named in the subpoena request are employees of VSSI, nor are they in the direct control of VSSI. Therefore, to the extent that any or all of the subpoena requests are granted, VSSI reserves the right to treat such individuals as hostile witnesses.

WHEREFORE, Verizon Select Services Inc. respectfully requests that the Petition for Subpoenas be denied in its entirety.

Respectfully submitted,



Todd S. Stewart
HAWKE MCKEON SNISCAK & KENNARD LLP
100 North Tenth Street
Post Office Box 1778
Harrisburg, PA 17105-1778
717-236-1300

Dated: March 23, 2005

Counsel for Verizon Select Services Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the persons named:

Service By First Class Mail:

Sandra Feigley
P O. Box 15541
Harrisburg, PA 17105

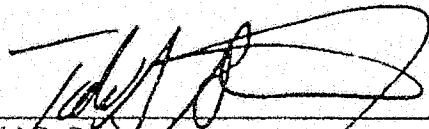
John McAndrews, AF 9458
1111 Altamont Blvd.
Frackville, PA 17931

George Feigley
AK 2760
1111 Altamont Blvd.
Frackville, PA 17931

William E. Fairall, Jr., Esq.
Deputy Chief Counsel
55 Utley Drive
Camp Hill, PA 17011

Amanda Ashelman
1111 Altamont Blvd.
Frackville, PA 17931

Dennis Durant, Captain
1111 Altamont Blvd.
Frackville, PA 17931



Todd S. Stewart

Dated: March 23, 2005

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MAR 23 PM 1:42
SECRETARY'S BUREAU

Before the Pennsylvania
Public Utility Commission

DOCKETED
AUG 24 2005

Sandra and George Feigley
Complainants

v

Verizon Select Services, Inc.
and Department of Corrections
by Robert Shannon
Respondents

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:
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:
:

Number C-20043621

RECEIVED

MAR 30 2005

Complainants' Exhibits
For Hearing

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

To the Administrative Law Judge:

Herewith please find exhibits to which the Complainants will refer in this matter, to wit:

1. Feigleys' Exhibit #1, Sandra Feigley's telephone bill dated 31 July 2004,

2. Feigleys' Exhibit #2, Sandra Feigley's telephone bill dated 31 August 2004,

3. Feigleys' Exhibit #3a, b and c, George Feigley's institutional grievance relating to disconnected phone calls dated 11 August 2004 along with replies by prison functionary and Robert Shannon,

4. Electronic exhibits which are included by reference, but cannot be submitted except in printout which would adulterate the exhibits,

**DOCUMENT
FOLDER**

"Make Verizon Refund for Disconnected Calls"

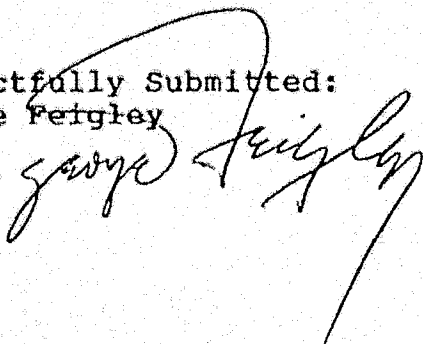
www.prisoners.com/lisa.html

"Me Against the Fracks"

www.prisoners.com/fracks.html

5. Public Document: Department of Corrections Administrative Directive 818 relating to censorship of telephone calls with prisoners.

Respectfully Submitted:
George Feigley

A handwritten signature in black ink, appearing to read "George Feigley", written over the typed name.

Date: 22 March 2005

I-NE IIX/VSSI
 PO Box 701028
 Dallas, TX 75370

I-NEL IIA/VSSI
 PO Box 701028
 Dallas, TX 75370

Feigley Smith Account # 341243 Statement Date 7/31/2004 Page 4

Summary By Billing ID Billing ID 7-2006046

Billing ID	Offis	Duration	Charge	Tax	Total
7-2006046	27	381.00	\$170.37	\$84.22	\$254.59
Total	27	381.00	\$170.37	\$84.22	\$254.59

From Number	To Number	Destination	Type	Date	Time	Rate	Charge
15708714359	1717236-6045	HARRISBURG, PA	IAE	06/28/04	18:55:37	15.00	\$8.55
15708714351	1717236-6045	HARRISBURG, PA	IAE	06/28/04	18:55:10	15.00	\$8.55
15708714374	1717236-6045	HARRISBURG, PA	IAE	06/30/04	18:54:42	12.00	\$6.74
15708714378	1717236-6045	HARRISBURG, PA	IAE	06/30/04	17:05:51	15.00	\$8.55
15708714376	1717236-6045	HARRISBURG, PA	IAE	07/01/04	20:18:57	15.00	\$8.55
15708714375	1717236-6045	HARRISBURG, PA	IAE	07/02/04	18:55:11	15.00	\$8.55
15708714372	1717236-6045	HARRISBURG, PA	IAE	07/04/04	13:15:28	15.00	\$8.55
15708714338	1717236-6045	HARRISBURG, PA	IAE	07/05/04	17:09:08	15.00	\$8.55
15708714351	1717236-6045	HARRISBURG, PA	IAE	07/06/04	18:01:52	15.00	\$8.55
15708714348	1717236-6045	HARRISBURG, PA	IAE	07/07/04	18:01:16	15.00	\$8.55
15708714300	1717236-6045	HARRISBURG, PA	IAE	07/08/04	10:55:00	14.00	\$7.88
15708714305	1717236-6045	HARRISBURG, PA	IAE	07/10/04	8:11:48	15.00	\$8.55
15708714335	1717236-6045	HARRISBURG, PA	IAE	07/11/04	12:49:57	15.00	\$8.55
15708714335	1717236-6045	HARRISBURG, PA	IAE	07/12/04	18:01:16	15.00	\$8.55
15708714335	1717236-6045	HARRISBURG, PA	IAE	07/13/04	17:09:58	15.00	\$8.55
15708714382	1717236-6045	HARRISBURG, PA	IAE	07/14/04	7:54:20	10.00	\$5.80
15708714351	1717236-6045	HARRISBURG, PA	IAE	07/14/04	18:01:42	7.00	\$4.39
15708714331	1717236-6045	HARRISBURG, PA	IAE	07/16/04	08:01:59	15.00	\$8.55
15708714382	1717236-6045	HARRISBURG, PA	IAE	07/17/04	18:11:25	15.00	\$8.55
15708714382	1717236-6045	HARRISBURG, PA	IAE	07/18/04	12:11:38	15.00	\$8.55
15708714383	1717236-6045	HARRISBURG, PA	IAE	07/19/04	18:01:48	15.00	\$8.55
15708714383	1717236-6045	HARRISBURG, PA	IAE	07/20/04	17:59:57	15.00	\$8.55
15708714383	1717236-6045	HARRISBURG, PA	IAE	07/21/04	07:54:38	15.00	\$8.55
15708714380	1717236-6045	HARRISBURG, PA	IAE	07/22/04	07:58:01	15.00	\$8.55
15708714330	1717236-6045	HARRISBURG, PA	IAE	07/24/04	18:01:14	15.00	\$8.55
15708714338	1717236-6045	HARRISBURG, PA	IAE	07/26/04	12:59:11	15.00	\$8.55
15708714338	1717236-6045	HARRISBURG, PA	IAE	07/26/04	18:00:01	15.00	\$8.55
Total for 717-236-6045 381.00							
Report for 717-236-6045 381.00							

DOCKETED
 AUG 24 2005

DOCUMENT FOLDER

Feigley's Exh. b. 1 #1

From Number	To Number	Destination	Type	Date	Time	Rate	Charge
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	07/27/04	17:58:21	15.00	\$8.55
15701874-4346	1717236-6045	HARRISBURG, PA	IAE	07/28/04	18:01:00	17.00	\$8.74
15701874-4398	1717236-6045	HARRISBURG, PA	IAE	07/29/04	08:03:18	11.00	\$5.97
15701874-4308	1717236-6045	HARRISBURG, PA	IAE	07/31/04	17:51:10	15.00	\$8.55
15701874-4308	1717236-6045	HARRISBURG, PA	IAE	08/01/04	13:03:35	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/03/04	17:54:29	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/04/04	17:55:42	10.00	\$5.20
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/05/04	07:58:17	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/05/04	18:11:06	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/07/04	17:56:42	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/08/04	13:15:56	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/09/04	17:59:34	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/10/04	17:55:43	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/11/04	17:56:02	9.00	\$4.93
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/11/04	18:00:44	7.00	\$4.38
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/11/04	18:12:53	4.00	\$2.58
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/12/04	08:11:49	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/18/04	18:40:51	13.00	\$6.91
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/18/04	18:54:43	4.00	\$2.58
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/19/04	17:56:44	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/19/04	18:42:29	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/19/04	18:31:59	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/18/04	18:00:55	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/19/04	08:00:22	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/20/04	20:00:25	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/21/04	18:00:31	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/22/04	13:15:12	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/23/04	17:53:28	8.00	\$4.33
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/23/04	18:03:03	15.00	\$8.55
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/24/04	18:04:41	5.00	\$2.85
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/25/04	18:09:07	9.00	\$4.93
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/25/04	18:15:00	3.00	\$1.71
15701874-4338	1717236-6045	HARRISBURG, PA	IAE	08/25/04	08:00:43	15.00	\$8.55
Totals for: 717-236-6045							\$199.75
Report Total: 425.00							\$159.75

DOCKETED
 AUG 24 2005
DOCUMENT FOLDER

Copy of bill to
 submit as an exhibit
 and one used in the
 9-28-04 hearing

Feigley's ex.h.b.t #2

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598

FOR OFFICIAL USE ONLY
92761
GRIEVANCE NUMBER

OFFICIAL INMATE GRIEVANCE

TO: FACILITY GRIEVANCE COORDINATOR	FACILITY: SCI-Frackville	DATE: 11 August 2004
FROM (INMATE NAME & NUMBER) George Feigley, AK 2760	SIGNATURE OF INMATE: <i>[Signature]</i>	
WORK ASSIGNMENT: NONE	HOUSING ASSIGNMENT: DC 1021	

INSTRUCTIONS

1. Refer to the DC-ADM 804 for procedures on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. List in Block B any actions you may have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages. During a telephone conversation with my wife at 717-236-5045 shortly after 6 PM 11 August 2004, we were TWICE disconnected. Each time cost an additional re-connection fee. Similar disconnections have occurred on numerous Wednesdays. There was no legitimate justification for the disconnections - any of them. My wife doesn't subscribe to or use call waiting or forwarding. The system is fundamentally flawed. It is a defective product/served promoted by fraud. It appears that the disconnections are the result of some human agency within the prison or an effort to harass and cause expense.

Have my wife's account credited with the amounts of the various disconnections reconnects. She is sending a copy of her phone bill. Take steps to limit and/or eliminate the costly disconnections.

B. List actions taken and staff you have contacted, before submitting this grievance. We have gone to the Public Utility Commission and will do so again as a result of this latest pattern of gouging. Previously we had PUC as a respondent and will do so again.

DOCUMENTED
AUG 24 2005

Your grievance has been received and will be processed in accordance with DC-ADM 804.

P. Flantz
Signature of Facility Grievance Coordinator

**DOCUMENT
FOLDER**

8-18-04
Date

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17011

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. 92761

TO:(NAME & DC NO.)	INSTITUTION:	QUARTERS:	GRIEVANCE DATE:
FEIGLEY, George AK-2760	SCI-FRACKVILLE	CC21	8/11/04

The following is a summary of my findings regarding your grievance:

The phone service provider/coordinator was contacted and a check of the calls you indicated was conducted.

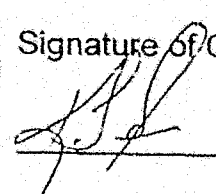
The calls for 14 July and 28 July were shown to be attempted 3-way calls. Custom calling features are not authorized and, when detected by the computer, will be disconnected.

The call for 11 August was shown that a button was pushed. This action, when detected by the computer, will disconnect the call as an attempted custom calling feature.

The call for 14 August was shown to be an attempted 3-way call.

The calls you indicated were all checked by the phone service provider/coordinator and the calls were disconnected for the reasons stated.

cc: DSFM
Major
DC-15
File

Print Name and Title of Grievance Officer	Signature of Grievance Officer	Date
Lt. Schauer		8/20/04

DOCKETED
AUG 24 2005

**DOCUMENT
FOLDER**

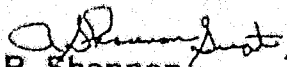
Feigley's Exh. B. 1 #36

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Frackville
Superintendent's Office
September 2, 2004

21 (a)

SUBJECT: Response to Official Inmate Grievance #92761

TO: George Feigley, AK-2760/CC-21

FROM: 
R. Shannon
Superintendent

In preparing a response to this appeal, I have reviewed your initial grievance, the grievance response, and this appeal. The following comments are provided:

Response provided to your Grievance by Lt. Schauer reflects his investigation that the phone system disconnected when a prohibited custom-calling feature was attempted. There is evidence to support those findings.

Grievance appeal is therefore denied.

RS:abs

cc: Deputy Kerestes
Deputy Shutt
CSA Damiter
Unit Manager Miranda
DC-15
File

DOCKETED
AUG 24 2005

DOCUMENT
FOLDER

Feigley Exhibit # 30

Before the Pennsylvania
Public Utility Commission

RECEIVED

MAR 30 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Sandra and George Feigley
Complainants

v

Verizon Select Services, Inc.
and Department of Corrections
by Robert Shannon
Respondents

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:
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:
:

Number C-20043621

DOCUMENT
FOLDER

Complainants' Exhibits
For Hearing

To the Administrative Law Judge:

Herewith please find exhibits to which the Complainants will refer in this matter, to wit:

1. Feigleys' Exhibit #1, Sandra Feigley's telephone bill dated 31 July 2004,
2. Feigleys' Exhibit #2, Sandra Feigley's telephone bill dated 31 August 2004,
3. Feigleys' Exhibit #3a, b and c, George Feigley's institutional grievance relating to disconnected phone calls dated 11 August 2004 along with replies by prison functionary and Robert Shannon,
4. Electronic exhibits which are included by reference, but cannot be submitted except in printout which would adulterate the exhibits,

"Make Verizon Refund for Disconnected Calls"

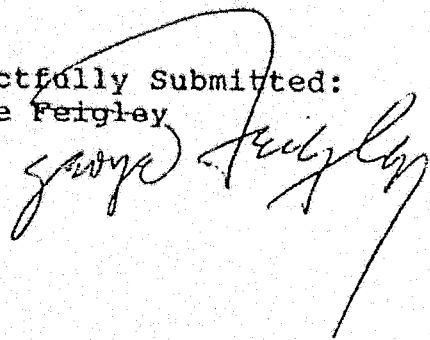
www.prisoners.com/lisa.html

"Me Against the Fracks"

www.prisoners.com/fracks.html

5. Public Document: Department of Corrections Administrative Directive 818 relating to censorship of telephone calls with prisoners.

Respectfully Submitted:
George Feigley

A handwritten signature in cursive script, appearing to read "George Feigley", written over the typed name.

Date: 22 March 2005

Cellular Billing ID: 717-236-6045

Post Number	To Number	Description	Type	Date	Time	Min	Charge
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	07/27/04	17:56:01	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	07/28/04	19:01:00	12.00	\$5.74
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	07/28/04	09:43:14	15.00	\$8.47
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	07/31/04	17:54:10	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/01/04	13:04:35	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/03/04	17:54:28	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/04/04	7:55:47	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/05/04	07:58:47	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/06/04	8:12:04	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/07/04	7:55:42	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/09/04	13:35:56	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/09/04	17:59:34	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/10/04	17:55:43	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/11/04	17:55:02	9.00	\$4.93
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/11/04	18:05:44	7.00	\$4.39
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/11/04	18:12:53	4.00	\$3.58
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/12/04	08:11:49	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/14/04	15:40:51	13.00	\$6.91
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	09/14/04	15:54:42	4.00	\$3.58
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/15/04	11:45:44	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/16/04	18:42:29	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/17/04	15:34:59	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/18/04	18:03:55	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/18/04	09:00:22	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/20/04	20:00:55	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/21/04	18:00:33	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/22/04	12:15:12	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/23/04	17:53:28	9.00	\$4.93
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/23/04	18:01:03	18.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/24/04	18:01:41	15.00	\$8.55
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/25/04	18:03:34	5.00	\$3.85
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/25/04	18:03:07	9.00	\$4.93
15701874-4336	1717236-6045	HARRISBURG, PA	LAE	08/26/04	08:09:43	15.00	\$8.55

Totals for: 717-236-6045 425.00 \$199.75

Report Totals: 425.00 \$199.75

Copy of bill to
submit as an exhibit
and one used in the
9-28-04 hearing

Feigley's Exh. b. F #2

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598

FOR OFFICIAL USE ONLY
92761
GRIEVANCE NUMBER

OFFICIAL INMATE GRIEVANCE

TO: FACILITY GRIEVANCE COORDINATOR	FACILITY: SCI-Prackville	DATE: 11 August 2004
FROM: (INMATE NAME & NUMBER) George Feigley, AK 2760	SIGNATURE OF INMATE: <i>George Feigley</i>	
WORK ASSIGNMENT: NONE	HOUSING ASSIGNMENT: CC 1021	

INSTRUCTIONS:

1. Refer to the DC-ADM 804 for procedures on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. List in Block B any actions you may have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages.

During a telephone conversation with my wife at 717-236-6045 shortly after 6 PM 11 August 2004, we were TWICE disconnected. Each time cost an additional re-connection fee. Similar disconnections have occurred on numerous Wednesdays. There was no legitimate justification for the disconnections - any of them. My wife doesn't subscribe to or use call waiting or forwarding. The system is fundamentally flawed. It is a defective product/served promoted by fraud. It appears that the disconnections are the result of some human agency within the prison or an effort to harass and cause expense.

Have my wife's account credited with the amounts of the various disconnections reconnects. She is sending a copy of her phone bill. Take steps to limit and/or eliminate the costly disconnections.

B. List actions taken and staff you have contacted, before submitting this grievance.

We have gone to the Public Utility Commission and will do so again as a result of this latest pattern of gouging. Previously we re of PUC as a respondent and will do so again.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

P. Dantz
Signature of Facility Grievance Coordinator

8 18 04
Date

Feigley's sy #3a

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17011

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. 92761

TO:(NAME & DC NO.)	INSTITUTION:	QUARTERS:	GRIEVANCE DATE:
FEIGLEY, George AK-2760	SCI-FRACKVILLE	CC21	8/11/04

The following is a summary of my findings regarding your grievance.

The phone service provider/coordinator was contacted and a check of the calls you indicated was conducted.

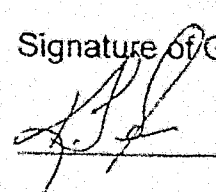
The calls for 14 July and 28 July were shown to be attempted 3-way calls. Custom calling features are not authorized and, when detected by the computer, will be disconnected.

The call for 11 August was shown that a button was pushed. This action, when detected by the computer, will disconnect the call as an attempted custom calling feature.

The call for 14 August was shown to be an attempted 3-way call.

The calls you indicated were all checked by the phone service provider/coordinator and the calls were disconnected for the reasons stated.

cc: DSFM
Major
DC-15
File

Print Name and Title of Grievance Officer Lt. Schauer	Signature of Grievance Officer 	Date 8/30/04
--	---	---------------------

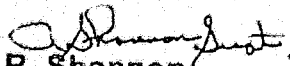
Feigley's Inmate #36

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Frackville
Superintendent's Office
September 2, 2004

21 @

SUBJECT: Response to Official Inmate Grievance #92761

TO: George Feigley, AK-2760/CC-21

FROM: 
R. Shannon
Superintendent

In preparing a response to this appeal, I have reviewed your initial grievance, the grievance response, and this appeal. The following comments are provided:

Response provided to your Grievance by Lt. Schauer reflects his investigation that the phone system disconnected when a prohibited custom-calling feature was attempted. There is evidence to support those findings.

Grievance appeal is therefore denied.

RS:abs

cc: Deputy Kerestes
Deputy Shutt
CSA Damiter
Unit Manager Miranda
DC-15
File

Feigley Exhibit # 30

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sandra Feigley and George Feigley,

Complainants

v.

Verizon Select Services Inc.

Respondents

:
:
:
: Docket No. C-20043621
:
: (ALJ Louis G. Cocheres)
:
:
:

LETTER BRIEF IN RESPONSE TO COMPLAINANTS

I. STATEMENT OF THE CASE

Sandra Feigley and George Feigley, her husband, (Feigleys) filed a formal complaint regarding telephone service at the State Correctional at Frackville at (SCI- Frackville) and ultimately named Verizon Select Services, Inc. I partnership with the PA Department of Corrections, by Robert Shannon. A hearing was conducted May 6, 2005, a transcript rendered, Feigleys have submitted a brief and Respondents briefs are currently due. Counsel for the Department of Corrections and Robert Shannon, William E. Fairall, respectfully submits that the computer server servicing the entire building at 55 Utley Drive where the offices of Chief Counsel are located crashed mid-morning so that no access to files or our database is available. Counsel has prepared this document at home in order to file within the parameters of the PUC' rules and regulations.

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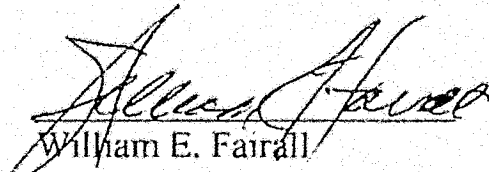
II Lack of Jurisdiction

The Department submits that it is not a public utility subject to jurisdiction of the PUC. No testimony at the hearing or anything contained in Feigleys' brief or argument establishes that the department is a public utility or that it is otherwise subject to the jurisdiction of the PUC. The Department of Corrections is an executive agency of the Commonwealth, jurisdiction over the Department generally lies with the Commonwealth Court, and lies there exclusively in actions of mandamus. *See* 42 Pa. C.S.A. Section 761. Feigleys have failed to establish by relevant testimony, by any reference to the hearing transcript or by providing any case law or statutory citation, that the Department is a partner of VSSI, or that it can be construed or deemed to be so by the PUC. Feigleys have simply failed to provide evidence of any nature that would suggest, let alone support, their proposition that the DOC is public utility or is a partner with VSSI.

III Joinder

For purposes of the merits of Feigley's complaint, Counsel for the Department and Robert Shannon, whom Feigelys failed to even mention in their testimony and brief, hereby joins in the Brief filed in this matter by Todd S. Stewart, Esquire on behalf of Verizon Select Services, Inc.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William E. Fairall", written over a horizontal line.

William E. Fairall

Pa Attorney ID 20840

Pa. Department of Corrections

Office of Chief Counsel

55 Utley Drive

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June 23, 2005

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June 23, 2005

ORIGINAL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street - Filing Room
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Sandra Feigley and George Feigley v. Verizon Select Services Inc.;
Docket No. C-20043621; **MAIN TRIAL BRIEF OF RESPONDENT;**
VERIZON SELECT SERVICES INC.

Dear Secretary McNulty:

KJR

Enclosed for filing with the Commission are the original and nine (9) copies of the Main Trial Brief of Respondent, Verizon Select Services Inc. regarding the above-referenced case.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Sincerely,



Todd S. Stewart
Counsel for
Verizon Select Services Inc.

**DOCUMENT
FOLDER**

TSS/tap
Enclosures

cc: Honorable Louis G. Cocheres (via hand delivery and electronic mail)

63

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Sandra Feigley and George Feigley,
Complainants

v.

Docket No. C-20043621

Verizon Select Services Inc.,
Respondent

**DOCUMENT
FOLDER**

SECRET
P. 1:20

**MAIN TRIAL BRIEF OF
RESPONDENT, VERIZON SELECT SERVICES INC.**

DOCKETED
JUN 24 2005

Todd S. Stewart
HAWKE MCKEON SNISCAK & KENNARD LLP
100 North Tenth Street
Post Office Box 1778
Harrisburg, PA 17105-1778
717-236-1300

Counsel for Verizon Select Services Inc

Dated: June 23, 2005

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I. STATEMENT OF THE CASE

A. Procedural History

On or about September 13, 2004, Verizon Select Services Inc. ("VSSI") was served with the Complaint of Sandra and George Feigley ("Feigley") in the above-captioned matter. The Complaint alleges: 1) that the telephone system operated by the "prison" and VSSI was a defective product and was promoted fraudulently; 2) that this service habitually disconnects calls thereby causing inmates to bear an additional fee; 3) that the system interrupts conversations with announcements for which the inmate must pay; 4) that the system does not accurately time calls; and 5) that the service charges are unreasonable; and, 6) that there is an exorbitant fee of \$3.99 just to accept payment of bills.

On or about October 4, 2004, VSSI filed an Answer in which it denied the material allegations of the Complaint. On October 16, 2004, VSSI was served with the Motion to Strike Answer and New Matter of Verizon Select Services filed by George Feigley suggesting that because VSSI's Answer to the Complaint was not served upon him at SCI Frackville, that service was improper and incomplete and that the document must be stricken. On October 19, 2004, VSSI filed an Answer to the Motion to Strike which responded to Mr. Feigley's allegations by stating that service was proper and complete because Mr. Feigley's address was not included on the Complaint, that the only address included on the Complaint form was that of Mrs. Feigley, and that the Answer was served both upon Mr. and Mrs. Feigley at the only listed address. VSSI contended that on or about March 11, 2005, Mr. Feigley filed a Motion for Subpoenas of Amanda Ashelman, Dennis Durant and John McAndrews. On March 22, 2005, the DOC filed an Answer and New Matter in this case and on that same date the DOC filed an Objection to the Motion for Subpoenas. On March 23, 2005 the Feigleys submitted their hearing

exhibits and on that same date VSSI filed an Objection to the Subpoenas request issued by the Feigleys.

On March 31, 2005 Presiding Administrative Law Judge Louis G. Cocheres ("ALJ Cocheres") issued his first Prehearing Order setting the procedures for the hearing and on that same day ALJ Cocheres issued his second Prehearing Order ruling on the subpoena request of the Feigleys. That second Prehearing Order granted the request as to Amanda Ashelman and Dennis Durant but denied the request for John McAndrews.

On April 22, 2005 ALJ Cocheres issued Prehearing Order No. 3 in which he refused to grant a Motion for Recusal filed by the Feigleys; denied the Feigley's Motion to Strike the Answer and New Matter of Verizon Select Services Inc. and denied the Feigley's Motion to Strike the Answer and New Matter of the DOC.

Hearings¹ were held before the Presiding Administrative Law Judge on May 6, 2005 and the transcript was prepared and comprised 128 pages. Six Exhibits, numbers 1, 2, 3, 3(a), 3(b), 3(c) and 4 were introduced into the record of this proceeding by the Feigleys, exhibit 4 over the objection of VSSI. At the conclusion of the hearing, the ALJ required that VSSI file its Brief on or before June 23, 2005. The purpose of this brief is to comply with that requirement.

B. Introduction and Factual Background

Mr. Feigley is incarcerated at the State Correctional Institution at Frackville ("SCI Frackville"). (Tr. at 73:18-19). Consequently, he is only permitted to make telephone calls using telephone equipment provided for his use by Verizon Pennsylvania Inc. ("Verizon PA") pursuant a contract with the DOC ("DOC"). VSSI is a subcontractor of Verizon PA and provides carriage

¹ Contrary to Mr. Feigley's prejudicial extra-record assertion, Verizon PA had absolutely nothing to do with the video-conferencing issues the day of the hearing. To the extent that those problems inconvenienced or harmed anyone, such was shared by all, including the Presiding ALJ.

of intraLATA and interstate calls and other administrative services. (Tr. at 95:11-24). T-Netix, or SecurUs as it is now known, is another subcontractor and provides the equipment and software that provides the call surveillance, monitoring and other functionality required by the DOC via the contract. (Tr. at 95:11-24). This equipment allows the telephone calls of the prisoners to be actively monitored, provides that the inmates are permitted only to make phone calls to certain individuals, provides for the restricting of the inmates to making a certain number of phone calls per day, and restrictions as to how many times per week they may call certain individuals. (Tr. at 95:5-22).

The equipment also electronically surveils inmate calls while in progress to make sure that no three-way call or call forwarding attempts are made. (Tr. at 96:11-13). The equipment is state of the art technology for this purpose, as required by the contract, and is designed to detect certain sounds or other changes in calls while in progress for signs that typically indicate that the called party is engaging in a prohibited three-way call, or call forward attempt. (Tr. at 97-98). In the event that the equipment detects a three-way call attempt or one of the indicators that signal a three-way call attempt, it will disconnect the call automatically. (Tr. at 97:11-15).

The equipment that provides this functionality is located beyond the customer's network interface device ("NID") at SCI Frackville. (Tr. at 98:10-13). All of the functionality that is provided by the T-Netix equipment is provided on the customer's side of the NID and, therefore, is not public utility equipment.

Mrs. Feigley is a telephone customer of Verizon PA although she did not put a Verizon PA bill into the record in this proceeding. (Tr. at 41:5-7). The Feigley's claim with much fanfare in their Brief that Verizon PA added call-forwarding to her service without her knowledge or consent (Feigley Brief at 15) - which allegation remains unproven, since there was no evidence

to support that allegation at hearing other than Mrs. Feigley's non-credible testimony. Nonetheless, Mrs. Feigley admits that she has call-forwarding (Tr. at 42:12-15). Mr. Feigley, in his brief, makes a self-serving attempt to modify the complaint to include an allegation that call-forwarding was added to Mrs. Feigley's Verizon account for purposes of discrediting her at trial. (Feigley Brief at 15). That allegation is unsupported and must be considered to be untrue. The circumstances by which Mrs. Feigley came to have call-forwarding as part of her telephone service are unproven in the record and the Feigley's cannot amend their complaint after the hearing.

Mrs. Feigley claims that she has been charged \$3.99 just to pay her bill (Tr. at 47:1-4), but she provided no documentary evidence to support that allegation, and put certain T-Netix bills into the record which showed no \$3.99 fee. (Feigley Exhibits 1 & 2; Tr. at 59:21). VSSI's witness, however, testified that T-Netix has a program that allows customers to pay their bill with a credit card or phone check for which there is a fee of \$3.99. (Tr. at 109:23-110:7). Use of regular checks or money orders will not incur the \$3.99 fee for paying a bill. The actual notice of this charge, provided by the Feigleys in discovery and read by Mrs. Feigley into the record, makes that point abundantly clear. (Tr. at 59:21).

Mr. Feigley makes the accusation that his prepaid account was not credited appropriately. Mr. Feigley offered no substantiation, not even a specific date when he claims this activity occurred. Upon investigation, Ms. Breslin, a Verizon PA employee, determined that in one discreet instance, there was a delay of approximately 6 days from the time that Mr. Feigley visited the commissary to have funds placed in his prepaid account until it was actually credited by the commissary system. The DOC' commissary acknowledged to Verizon PA that it was having a problem with its equipment (Tr. at 101:7) which caused the delay.

The Feigleys claim that the rates charged by VSSI for the carriage of intrastate interLATA calls are too high (Feigley Brief at 19), attempting to make the comparison with interstate long distance rates for service provided to non-incarcerated individuals. However, the appropriate service comparison is between other pay telephone service and the rates charged for making interstate calls from such installations. 52 Pa. Code § 63.112. VSSI witness Ries' uncontradicted testimony shows that the rates that VSSI charges for the carriage of calls from SCI Frackville are, in fact, less than its tariff rates for the similar service provided to the general public, making the inmate rates presumptively reasonable; a presumption that was not overcome. (Tr. at 110:17-112:3).

Simply put, it appears that the Feigleys do not like the fact that Mr. Feigley is incarcerated, and as a result, that his ability to use the telephone is subject to certain restrictions and limitations that are not common outside of the controlled environment of a prison. Those restrictions include having his calls monitored and recorded, and playing of taped overlays at various intervals throughout a call informing the called party that the call originates from a state correctional facility. Those restrictions also include having his calls monitored electronically for three-way calls or call forwarding attempts and the occasional disconnection when the precursors for such activity are detected. These sorts of disconnections are not system malfunctions -- the system was designed to detect certain sounds and other indicators and to disconnect the call accordingly because those sounds typically are signals of a three-way call. Finally, because Mr. Feigley is incarcerated the system to provide all this functionality, so that he can be given the privilege of making telephone calls from prison, must be paid for and that requires that the rates for calls from prison are higher than one might expect when making a standard long distance telephone call if one were not incarcerated. All of these requirements are requirements

of the DOC, including the sensitivity of the call monitoring system, the restrictions on the number of calls to be made, and taped overlays; the frequency of those taped overlays, as well as their content.

II. PROPOSED FINDINGS OF FACT

1. Mr. Feigley is incarcerated at the State Correctional Institution at Frackville, Pennsylvania. (Tr. at 73:18-19).

2. Sandra Feigley, his wife, is not incarcerated.

3. VSSI provides telephone service as a subcontractor under a contract between Verizon PA and the Commonwealth of Pennsylvania DOC for the provision of telephone services to state correctional institutions. (Tr. at 95:11).

4. The physical equipment and associated software used to monitor inmate telephone calls and provide all the functionality required by the DOC is similar to customer premises equipment and is located on the customer's side of the NID in each state correctional institution. (Tr. at 98:10).

5. The equipment and software was designed to prevent three-way calls or call forwarding by detecting certain occurrences such as a switch-hook/flash or other sounds or electrical disturbances on a telephone line, which are similar to those which may be employed in the use of a three-way call or call-forward attempt. (Tr. at 97:11-98:7).

6. Call-forwarding or three-way calls are prohibited by the regulations of the DOC. (Tr. at 97:11).

7. At least three times during a 15-minute telephone call originating from SCI Frackville, the conversation is interrupted by a message indicating that the call originated from a

state correctional institution and is subject to monitoring and recording. Each message is approximately 5 seconds in duration. (Tr. at 96:5).

8. These taped overlays are required by the DOC by contract and the DOC controls the frequency and content of the overlays. (Tr. at 96:5).

9. The equipment which monitors inmate telephone calls is the state of the art and the functionality is required by the contract with the DOC. (Tr. at 99:10).

10. The rates at which VSSI provides carriage of telephone calls from the state correctional facility are contained in lawfully filed tariffs. VSSI's rates for an intrastate interLATA call are less than its rates for interstate interLATA calls. (Tr. at 110:24-112:3).

11. Mr. Feigley had only 6 disconnections for apparent call-forwarding or three-way call attempts out of 340 calls in the past 10 months. (Tr. at 15:1 -17:15; Tr. at 33:4).

12. The onsite administrator's job duties at SCI Frackville do not include answering customer complaints from non-inmates. (Tr. at 10:4). Mrs. Feigley's complaints about customer service largely relate to conversations with the on-site administrator at SCI Frackville and the administrator's inability to provide Mrs. Feigley with refunds. The administrator is not authorized to provide refunds. (Tr. at 13:18).

13. Mrs. Feigley's so-called evidence of having spoken to someone at Verizon PA or VSSI named "Lisa" regarding seeking refunds is not credible. (Feigley Exhibit 4; Tr. at 55:11-56:24).

14. There was a single incident in which Mr. Feigley's prepaid account was not credited for several days after he apparently transferred the money, due to a problem with the DOC commissary system. (Tr. at 101:7).

15. It is not a malfunction of the T-Netix equipment when it disconnects a telephone call because a called party is using a cordless phone (Mrs. Feigley admitted using a cordless phone) (Tr. at 64:23), uses a cell phone (Mrs. Feigley admits to receiving inmate calls on her cell phone) (Tr. at 65:9), moves around excessively or otherwise causes noise, presses a button on the phone or makes a loud noise (Tr. at 15:4; 98:2). (Tr. at 15:4). Rather, these signals are indistinguishable from signals caused by three-way or call-forwarding attempts.

16. Mrs. Feigley admitted that she had call-forwarding on her line at the time of the hearing. (Tr. at 41:23).

17. The DOC requires the inmate telephone system to monitor, detect and prevent three-way calls or call forwarding in order to protect the public. (Tr. at 97:22).

18. The DOC exclusively controls the sensitivity of the system that monitors for three-way calling and call-forwarding activity and that sensitivity is adjustable at the sole discretion of the DOC. (Tr. at 99:15; 20:7).

19. The sensitivity factor at SCI Frackville is relatively low compared to the range of sensitivity available to the DOC. (Tr. at 99:15).

20. The content and timing of the taped voice overlay messages are required by the DOC and controlled exclusively by the DOC. (Tr. at 96:5).

21. When Mr. Feigley had issues with the telephones at SCI Frackville, he did not use the telephone discrepancy forms to register his complaint. Rather, Mr. Feigley instituted grievances through the procedure set up for inmates. Those grievances are not provided to the site administrator, T-Netix, VSSI or Verizon PA except and unless the DOC chooses to do so. Telephone discrepancy forms do go to ShawnTech's site administrator. (Tr. at 100:3-20).

22. Mr. Feigley, a long time and frequent user of the inmate telephone system, who is apparently knowledgeable of all forms of grievance and complaint procedures regarding the telephone system, and apparently is willfully ignorant of the fact that his appropriate recourse is through a discrepancy form, not through a grievance. (Tr. at 77:8).

23. The calls originating from SCI Frackville are correctly timed as evidenced by the testimony of Mr. Ries who showed that he compared call times recorded on the switches to called times recorded on the T-Netix equipment for the various calls made by Mr. Feigley and found that those calls were timed and billed accurately. (Tr. at 108:2-10).

24. Mr. Feigley's claims of inaccurate timing are based upon his timing the calls using a wristwatch, which does not have a stopwatch. (Tr. at 91:7). Under cross-examination Mr. Feigley admitted that the differences were only a matter of seconds. (Tr. at 91:4).

25. Mrs. Feigley's so called "evidence" that VSSI charges \$3.99 for her to pay her bills was a notice from VSSI included as an exhibit in discovery which plainly states that such charge is made only if the customer chooses to pay by credit card or telephone check. (Tr. at 59:10-60:5). That notice makes clear that customers are not charged for paying a bill by paying by regular check or money order. Mrs. Feigley produced no evidence showing that she ever was charged \$3.99 to pay her bill to VSSI. In fact, during the course of the hearing, Mrs. Feigley presented several of her T-Netix telephone bills, none of which contained a \$3.99 charge. (Feigley Exhibits Nos. 1 & 2)

26. There is no credible evidence in the record that Mrs. Feigley ever was treated badly by a Verizon employee. The only "evidence" is an article claimed to have been written by Mrs. Feigley but with a byline listing a person other than Mrs. Feigley as the author. (Tr. at 55:9-56:24). Mrs. Feigley claims that the name is an alias. This evidence neither shows a pattern of

bad behavior nor is it credible. Mrs. Feigley's testimony varies, saying at one point that the alleged Verizon employee was in Philadelphia (Tr. at 47:13; Tr. at 69:1), and then saying that she was not (Tr. at 56:9).

III. STATEMENT OF THE QUESTIONS INVOLVED

1. Does the Public Utility Commission have jurisdiction to administer the contract between the DOC, and a provider of inmate telephone service?

Suggested Answer: No.

2. Does the Public Utility Commission have jurisdiction over customer premises equipment, and its operation, where that equipment is used to provide functionality required by the DOC and which is located beyond the Network Interface Device?

Suggested Answer: No.

3. Does the Public Utility Commission have jurisdiction over the inmate services provided by VSSI, to the extent such services are required by the DOC contract and are not otherwise public utility service?

Suggested Answer: No.

4. Have the Feigley's carried their burden of proving that VSSI has violated the Pennsylvania Public Utility Code, the Commission's regulations or Orders, or a VSSI's tariffs?

Suggested Answer: No.

IV. SUMMARY OF THE ARGUMENT

Mr. and Mrs. Feigley have a history of filing complaints against the companies that provide telephone service to state correctional facilities. They do not like the fact that there are taped interruptions or overlays during the call. They do not like the fact that the rates for such calls are higher than what they want to pay. They do not like the fact that the calls are monitored and sometimes disconnected whenever the system detects an apparent three-way or call forwarding attempt. They do not like the fact that the calls may be recorded and that someone is

listening to their telephone conversations. Rather, it appears that Mr. Feigley and Mrs. Feigley are unhappy about virtually everything concerning the inmate telephone system except the fact that Mr. Feigley is granted the privilege of making telephone calls to his wife on a fairly regular basis.

What the Feigleys fail to acknowledge, however, is the fact that because Mr. Feigley is incarcerated and because the DOC has multiple requirements for allowing prisoners the privilege of making telephone calls, his calling privileges are different.² Unfortunately, his wife must suffer through those requirements as well. However, it also is clear that all of the things about which the Feigleys complain, are for the most part, requirements of the DOC and necessary incidents of Mr. Feigley's incarceration:³ the taped overlays, the monitoring, the occasional interruption for call-forwarding or three-way call attempt detection and the rates.

All of the restrictions and conditions required by the DOC contract are beyond the jurisdiction of the Pennsylvania Public Utility Commission.⁴ Those requirements are not part of public utility service. Rather, the physical equipment that provides for this functionality is located behind the NID and on the customer premises; that is, in the prison.⁵ The equipment is intended to control inmate behavior, and is a necessary condition for inmates being permitted to use telephone service at all. The Pennsylvania Public Utility Commission already has found that the contract between the telephone carrier in that case AT&T and the DOC is beyond its

² *Sandra L. Feigley v. AT&T Communications of Pennsylvania, Inc. (AT&T)*, Docket No. C-00981434 (Opinion and Order entered April 20, 2001, slip op. at 24).

³ *Chimenti v. Pa. Dept. of Corr.*, 720 A.2d 205 (Pa. Cmwlth. 1998).

⁴ *AT&T*, slip op. at 24.

⁵ Facilities that are located beyond or behind the NID are considered to be inside wiring and are not tariffed and are not regulated by the Commission. *Re Detariffing of Inside Wire*, 62 Pa. PUC 511 (1986); *Leslie D. Jacobson v. Bell Atlantic-Pennsylvania Inc.*, Docket No. F-00594475 (Final Order Entered August 23, 1999).

jurisdiction and found that the DOC's restrictions likewise are outside of its primary jurisdiction.⁶

The DOC actively manages the provision of telephone service to the inmates including adjusting the sensitivity of the three-way call/call-forwarding attempt detection software and mandating the content and timing of the voice taped overlays. (Tr. at 99:15). The Commonwealth of Pennsylvania cannot be a public utility and cannot be regulated by the Public Utility Commission for exercising the functions required by its enabling statute to control the inmate population in the Commonwealth.

Nonetheless, VSSI has produced evidence sufficient to defeat each of the Feigleys' claims on their face. More importantly, the Feigleys have produced only bald, self-serving and unsupported statements in support of the vast majority of their claims. The testimony in this case clearly shows that the few times that the Feigleys actually did have a call disconnected, it was for a detected three-way call attempt or one of the parties hung up. Contrary to the assertions made by the Feigleys, however, this is not a system malfunction but is, in fact, what the system was designed to do. The system was not designed to detect non-three-way calls, but there are certain things (line conditions, noises or actions), which may give the appearance of three-way calls, which the system was designed to detect. Those things -- such as the use of a cordless phone (which Mrs. Feigley admits that she uses)(Tr. 64:17), or a cell phone (which Mrs. Feigley admits that she uses) (Tr. at 65:9), or loud noises etc. -- mimic the effects produced by 3-way call or call forwarding attempts. Mr. Feigley's attempt to suggest that his calls were disconnected when he made sounds like an "s" are not credible because he attempts to show that these were disconnected because of some DOC officials monitoring the calls and disconnecting the call manually. The unrefuted testimony in this record shows this is not possible. (Tr. at 38:21).

⁶ AT&T, slip op. at 17-25.

The Feigleys' claims about the voice overlays are without merit but, it is clear that these voice overlays take only an insignificant number of seconds out of the total 15 minute telephone call and are required by the statute and the requirements of the DOC policy. (Feigley Exhibit 3c)

Moreover, the Presiding Officer in this case already has found in a similar related case filed by the Feigleys that the inclusion of these voice overlays is not unreasonable public utility service.⁷ While VSSI disagrees that the voice overlays are part of public utility service, the Presiding ALJ's decision nonetheless shows, as to the Feigleys at least, that this argument must fail.

The Feigleys presented no competent evidence to substantiate their claims that the calls are inappropriately timed or that they received bad customer service from VSSI or that they were charged \$3.99 to pay a bill. The only credible evidence on the subject shows clearly that there is a complaint procedure and that the Feigleys routinely skirted that procedure. The evidence also shows that Mrs. Feigley never was charged a \$3.99 fee to pay her bill with a check or money order, and her claims of alleged dealings with a "Lisa" cannot be proven.

The fact is that Mr. Feigley is in the custody of the DOC in Pennsylvania. As a necessary requirement of his incarceration, the DOC has many requirements that control his behavior, including his use of the telephone. The telephone monitoring and control equipment is under the supervision and control of the DOC and is not public utility service. If Mr. Feigley has a complaint about the requirements of the DOC including the call monitoring system, his proper avenue is to take it up with the DOC through its grievance procedure or the civil courts, and attempt to change their policies.⁸ The services provided by VSSI to the DOC are required by

⁷ *Feigley v. T-Netix*, Docket No. C-20029138 (Initial Decision Entered April 12, 2005).

⁸ *AT&T*, slip op at 23

contract and VSSI cannot provide it in any other way. Because the service is provided by contract to the state, it is beyond the jurisdiction of the Public Utility Commission to administer that contract. Simply put, the Pennsylvania Public Utility Commission does not have control over the provision of service to inmates. The only jurisdictional feature of the inmate telephone service are the rates charged for the intrastate carriage of telephone calls. But because those rates have been shown to be less than the interstate rates for the same charges, the rates meet the presumption of reasonableness set forth in the Commission's regulations, and the Feigleys have failed to rebut that presumption by any evidence other than their dissatisfaction, which is not sufficient

In short, the Feigleys have proven no violation of the Pennsylvania Public Utility Code, the Commission's regulations or the tariffs of VSSI and their case is wholly lacking in merit.

V. ARGUMENT

A. **The services provided by VSSI for the DOC pursuant to Contract are not within the jurisdiction of the Pennsylvania Public Utility Commission.**

As the testimony at the hearing proves, inmates of state correctional facilities are able to use telephones provided pursuant to a contract with the DOC. VSSI is a subcontractor of Verizon PA for the provision of some of those services. That contract has very specific requirements with regard to the functionality of the equipment (which is provided by T-Netix/SecurUS) and other aspects of the telephone service provided for the use of prisoners. The equipment must be able to monitor and detect three-way call attempts, the system must be able to play voice overlays indicating that the call has originated from a state correctional facility, the system must allow for the active and passive monitoring of calls which include the passive recording and the active listening of calls during any inmate call, the system restricts the inmates

ability to make more than a certain number of calls per day/week and restricts the persons whom the inmates are permitted to call. (*See, generally*, Tr. at 95-98). The vast majority of the Feigleys complaints center on this functionality which is beyond the jurisdiction of the Public Utility Commission. The Feigleys complaint is analogous to an employee of a large corporation which has its own PBX equipment complaining to the Public Utility Commission about their local exchange carrier providing poor telephone service because their company's PBX equipment restricts them from making long distance phone calls from work. The Public Utility Commission does not have jurisdiction over the functioning of PBX equipment. Similarly, the Public Utility Commission has no jurisdiction over the functionality of the telephone equipment within the state correctional institutions. That equipment is provided under a contract with the DOC and this Commission and the Commonwealth Court already have held that the Commission has no jurisdiction over that contract.

The testimony at the hearing clearly points out that all the equipment that provides the functionality required by the DOC contract is located beyond the NID. (Tr. at 98:10). The testimony shows that the DOC controls the sensitivity of the call monitoring equipment, and that the DOC controls the frequency and content of the taped voice overlay messages. (Tr. at 95:10). The DOC controls when and how inmate calls are monitored. That is, in this case, VSSI is contractually obligated to the DOC as a state agency and this Public Utility Commission has no ability to control the behavior of its sister state agency.⁹

By contrast, if the Feigleys complained that there was static on the line in a call between Mr. Feigley and Mrs. Feigley and could show that the static originated somewhere in the public switched telephone network they might have a valid complaint against the telephone company. In this case, most of the complaint focuses on aspects of the call circuit which are physically

⁹ AT&T.

located in the prison, and which affect the call before that call ever leaves the prison side of the network interface device and enters into the jurisdictional public switched telephone network. Accordingly, this functionality is beyond the jurisdictional authority of the Public Utility Commission, under the Public Utility Code, to administer.¹⁰

Said differently, while there are specific statutory requirements with regard to the provision of an inmate telephone service, 66 Pa. C.S. § 2907, the Feigleys have not claimed that there was any violation of those requirements. In fact, the Feigleys' complaint, at least in part, concerns the very existence of §2907 in reference to the identification of the call as having originated from a state correctional facility. The Feigleys can point to no other specific section of the Public Utility Code or the Commission's Regulations or a Tariff that were allegedly violated. The law is clear that the Commission does not have jurisdiction to administer the DOC contract and that contract is the basis for the claims in this case. Accordingly, the Commission lacks jurisdiction to adjudicate the claims raised by the Feigleys.

B. VSSI provides reasonable and adequate service to the Feigleys.

Public utilities are not required to provide perfect service. Rather, public utilities are required to provide reasonable service. The evidence in this case clearly shows that Mr. and Mrs. Feigley were provided reasonable service to the extent that any service provided to them is jurisdictional to the Public Utility Commission. The Feigleys' complaint focuses on several aspects of telephone service provided generally for the benefit of inmates at the state correctional facilities including 1) the taped overlays; 2) the functionality of the call detection and monitoring equipment; 3) billing for telephone service; 4) customer service; 5) the timing of calls; and 6) the charges for calls. The evidence shows that in each instance, the complaints of the Feigleys are

¹⁰ *Re: Detariffing of Inside Wire; Leslie D. Jacobson v Bell Atlantic-Pennsylvania Inc.*

unfounded and not supported by evidence. On the contrary, the evidence shows that the service provided is reasonable and continuous.

1. The taped overlays do not violate the Public Utility Code and are controlled by the DOC.

The evidence shows that the taped overlays are provided pursuant to a policy requirement of the DOC and a requirement of the contract. (Feigley Exhibit 3c; Tr. at 96:5). Commission precedent has already found that the inclusion of overlays of the call does not violate the Pennsylvania Public Utility Code.¹¹ Moreover, because these overlays are provided pursuant to the contract and are under the control of the DOC, they are not public utility service. It would be incongruous at best for one state agency to have a specific contractual requirement for certain number of overlays and the content of those overlays with a contractor such as VSSI, and for a second state agency to adjudicate and determine that the provision according to the terms of the contracts of that service was unreasonable. That is the situation in this case.

The overlays are required by statute, 66 Pa. C.S. § 2907(a), to inform the public that the calls have originated from a state correctional facility. The timing and content of those messages are under the discretion of the DOC. There is no testimony in this case that VSSI or any other contractor provides these overlay messages outside of the scope of authority of the contract. Moreover, the equipment that generates these messages is located on the customer's side of the NID. The complaint in this case regarding the messages is akin to one telephone customer filing a complaint against the Public Utility Commission against the LEC because the customer on the other end of the line has loud music playing in the background while they are talking to them on the telephone. Simply put, the messages are not part of public utility service.

¹¹ *Feigley v. T-Netix*, Docket No. C-20029138 (Initial Decision Entered April 12, 2005).

Even if one does not agree that the provision of these overlays is not part of public utility service, the fact is they comprise less than 15 seconds of a 15-minute telephone call. On balance, in order to protect the public under the circumstances as described in the testimony -- that a phone can be handed off to one or more individuals throughout the course of a call -- it must be deemed as reasonable to play these messages randomly 3 times throughout the call. In short, the interruption is minimal, and despite the fact that the parties are being charged for the time are a required condition of incarceration.

2. The Call Forwarding/3-Way Call Detection Equipment/Software Owned and Operated by T-Netix functions properly.

The testimony in this case shows that the inmate call monitoring detection system employed by T-Netix/SecurUS is the best available technology and is accurate. (Tr. at 99:10). The testimony shows that this technology is designed to detect certain conditions on a telephone line that are indicators or produced by three-way calling or a call-forwarding attempt. The testimony shows that there are certain things that are not three-way call or call-forwarding attempts which may produce the same conditions on the telephone line as a three-way call attempt. If so, they could be detected as a three-way call attempt, since the system works largely upon variances in sound and electrical conditions on the telephone line. Inmates and their families are well aware of these factors including the use of cell phones, cordless phones, engaging in loud or sudden noises during the telephone conversation, pressing keys during telephone conversations or the actual use of the prohibited feature. The DOC requires that the system detect and prevent three way calls or call forward attempts and it controls the level of sensitivity of the detection. The DOC is required to balance the public safety versus the convenience of the inmates and apparently has done so on various occasions by adjusting the

sensitivity based upon the levels of complaints received about alleged improper disconnects. (Tr. at 99:15). The DOC believes it is absolutely necessary to have the monitoring equipment in place, and the record does show that calls may be disconnected when a three-way call attempt was not actually in progress. However, in the specific case of the Feigleys, the evidence shows that the number of calls disconnected due to apparent three-way or call-forwarding attempts was insignificant based upon the total number of calls placed by the Feigleys.

Inmate calls are subject to the telephone monitoring system. The system, while state-of-the-art does detect three-way calls when none have been attempted, these occurrences are not the norm, and are unavoidable based on the DOC's requirements and the state of the telephone network. Mrs. Feigley even admitted that she has call-forwarding on her line. So it is unknown whether any of these disconnects were, in fact, due to an actual three-way call attempt. Accordingly, there is nothing in the record that shows that this monitoring system is defective or that it constitutes unreasonable public utility service, to the extent that it constitutes public utility service at all. A few disconnections per year, even if attributable to public utility service (which has not been proven), under the circumstances, simply do not rise to the level of unreasonable service.

The sensitivity is within the control of the DOC, the DOC could turn that sensitivity to zero and allow all calls to proceed without any detection but that would not protect the public interest.¹² The testimony shows that increasing the sensitivity increases the likelihood of calls that are not three-way call attempt will be detected as such and be disconnected. (Tr. at 99:15). It is within the DOC discretion to adjust this balance. Based upon the evidence, to the extent that

¹² The Feigleys' unsupported claim that the DOC may manually terminate calls for whatever reason actually refute their claim of the alleged inaccuracy of the 3-way call detect system. If the DOC were able to terminate calls manually, despite the unrefuted testimony that it does not, the PUC would have no authority to make the DOC stop, and it would show that the 3-way call detection system is more accurate than the Feigleys appear ready to admit.

any aspect of the detection operation is considered to be jurisdictional public utility service, that service was reasonable and adequate. Exercise of that that discretion is not public utility service and cannot be found to be unreasonable by this Commission.¹³

3. The Bills Rendered to Complainant are Reasonable.

Mrs. Feigley claims that she was charged \$3.99 just to pay her bill from VSSI. She presents no evidence other than that bald statement to support her allegation. In fact, all her documentary evidence presented in this case proves the contrary. Mrs. Feigley's T-Netix bills, which she presented at the hearing, contained no \$3.99 charges. (Feigley Exhibits No. 1 & 2). Similarly, the only evidence provided by the Feigleys in response to an interrogatory request on the subject was a notice from T-Netix showing that the customer was charged \$3.99 only if they paid by telephone check or if they paid by credit card. (Tr. at 59:10). Mrs. Feigley's recollection that she was charged \$3.99 cannot be considered credible in light of the documentary evidence and testimony to the contrary and the lack of any documentary evidence to support her allegation. VSSI's witness testified that this service does exist but that customers are charged only for paying by telephone check or credit card because those are the fees charged to T-Netix for those services.

Mrs. Feigley also claims that she does not desire to be billed by T-Netix and that she was coerced into a direct billing relationship with T-Netix. The fact is, she offered no evidence under direct examination to support the bald allegation of "coercion", nor did she present any evidence of inadequate billing. Moreover, she cannot legally support her assertion that she should not be billed by T-Netix, and she admits that she does not have long distance service with Verizon PA, which prevents her from being billed for collect long distance charges on her local bill.

¹³ *AT&T, Chimenti*

Billing and collection services of interexchange carriers ("IXC") such as VSSI or T-Netix, are not subject to the requirements of Chapter 64 of the Commission's regulations.¹⁴ Consequently, even if it were true that VSSI or T-Netix did charge \$3.99 as alleged by Mrs. Feigley just to pay the bill, that rate cannot be found to violate any regulation. Mrs. Feigley's allegation is not true, however, and the Commission can resolve this allegation on that basis alone. There is no \$3.99 fee just to pay one's bill.

4. VSSI Did NOT Provide Unreasonable Customer Service to Mrs. Feigley.

Mrs. Feigley claims that a "Verizon" employee named "Lisa" yelled at her and told her that she would not get her money back. Based upon this story, Mrs. Feigley appears to suggest that she was provided unreasonable public utility service in violation of Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501. In support of her claim, Mrs. Feigley introduced an exhibit into the record (Feigley Exhibit 4) which is an article, which on its face purports to have been written by one Irene West. VSSI objected to the entry of the article on the grounds that it was prohibited hearsay evidence. Mrs. Feigley conveniently testified that she was Irene West, author of the article that Mrs. Feigley claims recounts her encounter with "Lisa." The "article" claims that a certain Verizon employee identified only by first name, Lisa, screamed at Mrs. Feigley and told her she would not get her money back and otherwise was irate towards Mrs. Feigley when Mrs. Feigley simply requested a refund for a telephone call.

The Feigleys did not provide this so-called article in written form to any other parties in this proceeding prior to the hearing and could not identify this Lisa other than by her alleged first name. Mrs. Feigley is not a credible witness. Moreover, the article itself claims that it was not

¹⁴ 52 Pa. Code § 63.117. This section applies only to the informal and alternative dispute resolution procedures of Chapter 64 to actions against IXCs in enforcing "this sub-chapter," namely subchapter "I", which regulates IXC resellers

written by her and it is hearsay and was objected to properly as such. Mrs. Feigley provided no substantiation for her claim that she is Irene West. The veracity of the contents of the article are, therefore, seriously in question and Mrs. Feigley's testimony cannot be corroborated. The so-called article is an advocacy piece, intended to spur people into complaining about "Verizon" and because of its tone and content is unreliable. Simply put, it appears that this is simply another story. Without any credible evidence and based upon one alleged phone call, there is insufficient evidence to support any finding that VSSI provided unreasonable service to Mrs. Feigley

Mrs. Feigley also testified that she had contact with the ShawnTech Administrator, Amanda Ashelman, who also testified at this hearing. However, there was no question regarding these contacts during the questioning of Ms. Ashelman, when Ms. Ashelman could have corroborated or refuted the content of those conversations. Rather, the Feigleys waited until after Ms. Ashelman left the room to engage in the hearsay account of Ms. Ashelman's statements. However, it is clear that Ms. Ashelman is not the appropriate person to contact regarding complaints for seeking refunds, as Ms. Ashelman herself testified. Nonetheless, the Feigleys claim that the fact that Ms. Ashelman was unable to help them somehow constituted unreasonable service.

In short, the Feigleys' claims are without merit. There is no credible evidence that Mrs. Feigley ever attempted to call VSSI to seek a refund. This claim cannot be established based upon the hearsay article presented as an exhibit in this case. Mr. Feigley's testimony that he sought refunds through the prison's grievance procedure are equally unavailing. While Mr. Feigley apparently knows the prison grievance system inside and out and knows the administration of the telephone system inside and out, to the point of knowing the name of the

site administrator, apparently Mr. Feigley is willfully ignorant of the fact that the appropriate means of seeking a refund through the ShawnTech site administrator is to file a telephone discrepancy form, not a grievance through the prison system. Mr. Feigley claims that the DOC did not investigate his grievances with T-Netix, which he asserts is unreasonable public utility service. This claim is unavailing because the DOC is not a public utility and does not provide public utility service.¹⁵ The DOC's role in investigating and adjudicating grievances cannot be imputed to VSSI, since it is separate and apart from VSSI's procedures. If Mr. Feigley does not like the manner in which the DOC resolves a grievance, he has recourse against the DOC through its processes, not before the Commission. The Feigleys avoided VSSI's complaint procedure for the most part. In short, there is no credible evidence that the Feigleys were provided with any unreasonable service from VSSI.

5. The calls made by the Feigleys were timed correctly.

The testimony proffered by VSSI shows that the calls from the Feigleys were timed correctly. Mr. Ries of VSSI testified that he sampled a number of Feigley calls and compared the times reported by the T-Netix equipment to the times shown on the switch equipment and that those times were the same. VSSI compared the time reported from the T-Netix Inmate Control System with the times reported by the VSSI platform switch which carried the call and found that the durations of the calls were the same. The VSSI platform switches are utilized on calls that are routed to the VSSI network. Mr. Feigley presented evidence that he allegedly timed calls using a wristwatch, which is inaccurate because Mr. Feigley would have no way of knowing the precise moment when the call was actually connected or disconnected. Mr. Feigley admitted that the alleged discrepancies were only a "few seconds," even though he could offer no

¹⁵ *Commonwealth v. Merritt Chapman & Scott Corporation*, 432 Pa. 584, 248 A. 2d 194 (1968).

dates or times that these alleged discrepancies occurred. Simply put, Mr. Feigley's so-called evidence is not credible and not sufficient to overcome the testimony offered by VSSI. The Complainants have failed to carry their burden of proof on this issue.

6. The rates for service to inmates are presumptively just and reasonable and that presumption has not been overcome in this case.

The Commission's regulations provide that so long as rates for intrastate calls are less than or equal to the comparable rates for interstate service for the same service, that those rates are presumptively just and reasonable. 52 Pa. Code § 63.112. Mr. Ries testified that the rates for service to inmates in Pennsylvania are less than the rates for service to the public. Those rates are also filed on VSSI tariffs with the Commission for public telephone payphone service. The Federal Communications Commission classifies inmate telephone system as a payphone service even though the equipment used does not resemble the traditional pay telephone.¹⁶ The Feigleys presented no evidence other than the bald assertions that these rates are too high except for extra record references to rates for non-inmate service from other unidentified carriers. Mr. Feigley admitted that the rates quoted were for just general long distance service and could have been interstate service rates or some other rate. The fact is the Feigleys presented no credible evidence, except for the bald assertions that they did not like the rates, to overcome the presumption of reasonableness quoted by the Commission's regulations, therefore, those rates are presumed to be reasonable.¹⁷

C. The Feigley's have failed utterly to carry their burden of proof in this case.

The Feigleys evidentiary presentation in this case fails to show any violation of the Pennsylvania Public Utility Code, the Commission's regulations or any tariff. The Feigleys have

¹⁶ 47 U.S.C. § 276[d]; *AT&T*, slip op. at 33.

¹⁷ *AT&T*, slip op. at 34.

failed to show any violation of the general requirement of reasonable and adequate public utility service under Section 1501 of the Public Utility Code. 66 Pa. C.S. § 1501. Mr. Feigley cites to no statute or regulation and therefore utterly fails to prove any violation of same. Rather, Mr. Feigley presents an "evidentiary" case, which simply reinforces the view that the service provided works as it should and is subject to the control and discretion of the DOC and is provided by equipment, which is not jurisdictional to the Public Utility Commission thus rendering most of the aspects of their complaint beyond the jurisdiction of the Public Utility Commission.

D. The Feigley's Other Claims are legally and factually unsupported, procedurally improper and spurious, and cannot form the basis for relief.

The Feigley's brief violates the Commission's procedural regulations in several respects, but perhaps most troubling and prejudicial is the fact that it contains no citation to the record. 52 Pa. Code § 5.501(a)(2). A review of the factual allegations represented in the brief shows that many diverge substantially from the actual record. Consequently, it is almost impossible to tie many of the allegations to any record support. Moreover, Mr. Feigley's brief contains several claims that were not part of the complaint. At least two of these claims were raised for the first time in the brief - the claim that some entity connected with respondent placed call forwarding on Mrs. Feigley's account (Feigley Brief at 15) and the hearsay claims that prison officials are manually disconnecting calls. (Feigley Brief at 21). This latter claim is simply the inclusion of non-credible, hearsay, extra-record contentions and is prohibited. The "cramming" issue was mentioned at hearing but at that point it was too late for VSSI to respond, nor could it, since it is not the local phone company. It appears that Mrs. Feigley was concerned that perhaps VSSI was planning to present evidence that she had call forwarding and so she pre-empted that occurrence

with an attack and claim of cramming. Whatever the reason, a claim such as cramming, which requires investigation, cannot be properly raised for the first time at hearing, in particular, when the proper respondent was not a party and was not present. It is not clear whether Mrs. Feigley has filed a formal complaint, but that is the appropriate avenue for her to take in seeking to vindicate her allegations.

The Feigley brief also raises some new arguments not contained in their complaint. They argue that the DOC is a public utility (Feigley Brief at 16) or is providing public utility service, when the law is clear that it cannot be a public utility.¹⁸ The DOC likewise is not subject to PUC jurisdiction. Accordingly, the DOC cannot be made a respondent in a complaint proceeding.¹⁹ There is no exception in the statute.

The Feigleys also argue that the "prisoner telephone system" is a monopoly. (Feigley Brief at 17). The evidence is clear that the DOC contracted with Verizon PA to provide inmate telephone services and that those services are provided on the premises of the prisons just like any other contractor. The contract is exclusive in that for the term of the contract the inmate calls are carried only by the winning contractor, but that does not make it an illegal monopoly.²⁰ There is no statutory authority for the proposition that prisoners should be able to choose their carrier. VSSI's charges are tariffed and are subject to Commission review and have been presumed to be reasonable. The issue of the rates violating the Feigley's rights and all other such claims already have been decided against the Feigleys on numerous occasions and are prohibited.²¹

¹⁸ 66 Pa. C.S. § 102; *Merritt Chapman*.

¹⁹ 66 Pa. C.S. § 701

²⁰ *AT&T*, slip op. at 25.

²¹ *See. AT&T, passim.*

VI. PROPOSED CONCLUSIONS OF LAW

1. The Pennsylvania Public Utility Commission does not have jurisdiction to administer the contract between Verizon PA and the DOC.
2. The contract between the DOC and Verizon PA is not a contract for public utility service.
3. The equipment that provides the functionality of the complained-of call monitoring and overlays, is subject to DOC discretion and control, is required by the contract and is not subject to PUC jurisdiction.
4. The performance of the T-Netix equipment, which is beyond the Network Interface Device, is inside wiring and is not subject to Commission jurisdiction.
5. The Feigleys have failed to carry their burden of proving any violation of the Public Utility Code, a Commission regulation or VSSI's tariff.
6. VSSI's tariffed rates are presumptively reasonable and the Feigleys have produced insufficient evidence to overcome that presumption.

VII. PROPOSED ORDERING PARAGRAPHS

1. The Feigleys' Complaint at Docket No. C-20043621 is dismissed with prejudice.
2. The DOC is dismissed as a party.
3. The record in this matter is marked as closed.

VIII. CONCLUSION

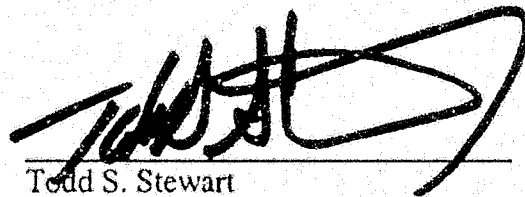
Mr. Feigley is incarcerated. That simple fact is not intended to denigrate him, but merely to point out that his incarceration comes at a cost that includes restrictions on his use of the telephone. Those restrictions are required by law, and/or the regulations of the DOC and are part of the requirements of the contract to which the provider of inmate phone services must adhere. The DOC must be presumed to be aware of the limitations of the technology for call monitoring and detection, yet it believes, on balance, that such systems are required to protect the public interest – to prevent criminals from re-victimizing the public or harassing witnesses or judges.

The DOC's restrictions have been addressed previously by the Courts and have not been found to be unreasonable. This Commission has found that it does not have the jurisdiction to tell the DOC how to run its prisons. The call restrictions on the inmates are administered and controlled, at least in intensity, by the DOC. The equipment that provides the functionality is located on DOC property and is similar to PBX equipment that is, it is located beyond the NID. It is clear that the inmate control system is not jurisdictional to the PUC and the provision of the services to the DOC, using that equipment, are not public utility service.

The Feigley's complaint comprises a multitude of claims, many of which they have litigated before, and lost. But in each instance in this case, they have produced no credible evidence of any violation of the Public Utility Code, the Commission's regulations or Orders or any VSSI tariff. In short, the Complainants have failed to carry their burden of proof and their claims fail on their own.

Accordingly, VSSI requests that the Presiding Administrative Law Judge deny or dismiss the Complaint in this matter with prejudice and in total.

Respectfully submitted,



Todd S. Stewart
Counsel for Listed NGSS

Dated: June 23, 2005

CERTIFICATE OF SERVICE

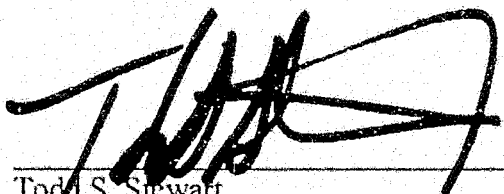
I hereby certify that I have this day served a true and correct copy of the foregoing document upon the persons named:

Service By First Class Mail:

Sandra Feigley
P.O. Box 15541
Harrisburg, PA 17105

George Feigley
AK 2760
1111 Altamont Blvd.
Frackville, PA 17931

William E. Fairall, Jr., Esq.
Deputy Chief Counsel
55 Utley Drive
Camp Hill, PA 17011



Todd S. Stewart

Dated: June 23, 2005

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Before the Pennsylvania
Public Utility Commission

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Sandra and George Feigley :
Complainants :
v :
Verizon Select Services, et al., :
Respondents :

PA P.U.C.
SECRETARY'S BUREAU
Number C-20043621

Motion for Admission of
After Discovered Evidence

DOCUMENT
FOLDER

1. Sandra and George Feigley, the Complainants in the above captioned matter, ask the Administrative Law Judge to take judicial notice of evidence presented to him after the close of the hearing in this matter.

2. During the morning of 28 June 2005, ALJ Louis G. Cocheres conducted a hearing in the matter of Jon E. Yount, et al. v T-Netix, Inc. at docket number C-20042655.

3. During that hearing the ALJ received sworn testimony from a service technician grade 4 with T-Netix, Inc. from Dallas, Texas, perhaps named Banks.

4. T-Netix, Inc. is the subcontractor/partner of the Respondents in the above captioned matter and the firm which provides the telephone eavesdropping equipment and/or software.

5. The technician's testimony confirmed that the eavesdropping gadget does not work properly.

6. The defective character of the eavesdropping equipment and software and the misrepresentation of the service are critical elements in the Complainants' claims.

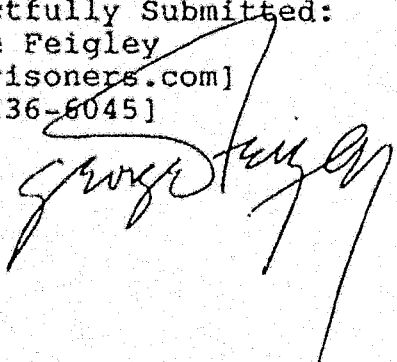
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7. Sandra and George Feigley ask the Administrative Law Judge to take judicial notice of the content of the T-Netix, Inc. technician's testimony in judging the present matter. It was not available to the Complainants until today, 29 June 2005.

Respectfully Submitted:
George Feigley
[sf@prisoners.com]
[717-236-8045]

Date: 29 June 2005



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PA P.U.C.
SECRETARY'S BUREAU

Before the Pennsylvania
Public Utility Commission

Sandra and George Feigley :
Complainants :
v :
Verizon Select Services, et al., : Number C-20043621
Respondents :

Certificate of Service

I certify that I am this day serving true and correct copies of
the herewith motion upon the persons indicated below by first
class mail postage prepaid.

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