



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 11-16

May 17, 2016

Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in
Massachusetts Seeking Relief from the Unjust and Unreasonable Cost of such Calls

HEARING OFFICER RULING PETITIONERS' MOTION TO REQUIRE COMPLIANCE WITH MASSACHUSETTS INMATE CALLING RATE CAP

On April 5, 2016, Prisoners' Legal Services of Massachusetts ("Petitioners") filed a motion requesting that the Department of Telecommunications and Cable ("Department") declare unlawful the rates charged under the amended contract between Global Tel* Link Corporation ("GTL") and the Massachusetts Department of Corrections ("DOC") and order GTL to refund payments charged in excess of the rates permitted under GTL's tariff on file with the Department. Petitioners' Motion at 3. On April 7, 2016, GTL submitted a response asserting that Petitioners' motion is improperly filed, meritless, and that the requested relief is moot as GTL is currently in compliance with the rate cap and has issued full refunds to any individuals that were overcharged. GTL Response at 1. For the reasons discussed below, the Department finds that there is no additional action the Department could take to grant the relief Petitioners' request and therefore denies Petitioners' motion as moot.¹

Petitioners claim GTL is assessing a per minute rate for Inmate Calling Services ("ICS") calls in excess of the amount approved in GTL's tariff on file with the Department. Petitioners'

¹ The Department is dismissing the motion as moot does not address GTL's other asserted grounds for dismissal.

Motion at 1-2. In support of their motion, Petitioners attached a copy of an amended contract between GTL and DOC, signed March 16, 2016, listing rates showing the cost per minute for calls within Massachusetts at rates in excess of \$0.10 per minute. Petitioners' Motion at Exh. 1. In response, GTL asserts the Petitioners' motion is improperly filed because: it is not sufficiently related to the matters at issue in D.T.C. 11-16; it would have been more properly filed as a new claim to Petitioners initial petition; and Petitioners lack standing. GTL Response at 2-3. GTL also claims that Petitioners have not followed the Department's long standing process for resolving billing complaints. GTL Response at 6 (citing *Rules & Practices Relating to Tel. Serv. to Residential Customers*, D.P.U. 18448, Rule 6 (Dec. 19, 1977)). In addition, GTL asserts that Petitioners' motion is moot because, under penalty of perjury, GTL claims that upon realizing its new contract was not in accord with the permitted \$0.10 per minute rate that it took steps to modify its billing system, identify the customers overcharged, refund the affected customers, and placed a notice on its website of the potential overcharge and that refunds has been issued. GTL Response at 4-5 (citing GTL Response at Exh. 4, Declaration of Steve Montanaro).

The Department may dismiss a motion as moot where there remains no relief for the Department to grant. *See Investigation by the Dep't of Tel. & Cable on its own Motion into the Petition of Verizon New England Inc., d/b/a Verizon Mass. and Halo Wireless Servs., Inc. for Approval of an Interconnect Agreement and Amendment No. 1.*, D.T.C. 11-10, *Order* (Jan 20, 2012)(denying motion as moot where there remained no relief requested in the motion that the Department could grant). There is no dispute that GTL amended its contract with DOC to adopt rates in excess of the \$0.10 per minute rate. *See* Petitioners' Motion Exh. 1; GTL Response at 4. It is also not in dispute that some individuals were charged an improper rate. *See* GTL's Response at 5. GTL has provided evidence that it has identified and provided refunds to each

individual that was overcharged. *See* GTL Response at Exh. 4. Petitioners do not dispute this claim or provide any evidence to the contrary. After considering the facts and evidence presented, the Department finds that GTL has corrected its error and is currently charging for ICS calls in accordance with its tariff on file with the Department, GTL has provided notice of its billing error, and GTL has provided refunds to those individuals affected by the overcharge. According, the Department could take no further action to grant the relief requested in Petitioners' motion and it is therefore dismissed as moot.

By Ruling of the Hearing Officer,

A handwritten signature in blue ink that reads "Michael E. Scott". The signature is written in a cursive style.

Michael Scott
Hearing Officer

NOTICE OF RIGHT TO APPEAL

Under the provisions of 220 C.M.R. § 1.06(d)(3), any aggrieved party may appeal this Ruling to the Commissioner by filing a written appeal with supporting documentation within five (5) days of this Ruling. A copy of this Ruling must accompany any appeal. A written response to any appeal must be filed within two (2) days of the appeal.