

PRISON POLICY INITIATIVE

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January 12, 2015

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WC Docket No. 12-375
Comments re Second Further Notice of Proposed Rulemaking §III (C):
ICS companies seizing unclaimed funds as a way to fleece families and
facilities

Dear Ms. Dortch:

When someone is released from prison or jail, families celebrate at the chance to finally reconnect in person. But this is also the moment when some of the prison telephone companies extract additional profits from the families.

Overview

As you know, some prison and jail phone companies charge as much as \$10 to issue a refund, and others seize the funds for their own use in as few as 90 days from the last call made.¹ To our knowledge, no company pays commissions to the facilities on money “earned” in this way. And given that 688,000 people are released from state or federal prison each year² and about 12 million people churn through jails each year³, the funds belonging to family and friends that are seized each year could easily be in the tens of millions of dollars.

Furthermore, funds left in accounts after release account for just one scenario under which accounts are left inactive, triggering the seizure. If the incarcerated family member is put in solitary confinement or otherwise has their phone privileges temporarily revoked, the account may become inactive. Even worse, Global Tel*Link requires a separate account for each phone number owned by the same person,

¹ See Table 4 of our report *Please Deposit All of Your Money: Kickbacks, Rates and Hidden Fees in the Jail Phone Industry*, available at http://www.prisonpolicy.org/phones/pleasedeposit.html#_ftnref79

² See U.S. Department of Justice, *Prisoners in 2011*, page 1, available at <http://www.bjs.gov/content/pub/pdf/p11.pdf>. For a further information see our briefing, *Mass Incarceration: The Whole Pie*, available at <http://www.prisonpolicy.org/reports/pie.html>

³ See page 3 of Bureau of Justice Statistics, *Jail Inmates at Midyear 2012 - Statistical Tables*, available at <http://www.bjs.gov/content/pub/pdf/jim12st.pdf>

encouraging inactivity one or more accounts even when the family member is regularly using the company's services.⁴

Over the last 18 months, we have sought to document the extent of the companies' practice of seizing funds, but were stymied by two factors:

- We learned that the companies' practices don't always match their public policies. The resulting practices are sometimes more advantageous to the consumer and sometimes more exploitative.⁵ Therefore, we needed evidence of actual practices, not just the companies' published policies.
- It is extremely difficult to find family members who have retained the necessary financial records and who are willing to share their stories publicly. Many families, despite the obvious injustice of seized funds, are eager to put their ordeals behind them after the family member is released.

So we conducted experiments to answer two related questions:

1. Would Global Tel*Link seize a deposit within 90 days of inactivity as we reported was the company's policy in our 2013 report *Please Deposit All of Your Money*? We found that Global Tel*Link does seize deposits within 90 days.
2. Is there any evidence that the largest companies in this industry are turning these seized funds over to state unclaimed asset programs? We found some evidence that Securus, PayTel and Century Link are turning over funds, and no evidence of Global Tel*Link and certain other companies are turning over unclaimed customer funds.

Our Findings

Question 1. Would Global Tel*Link seize a deposit after 90 days?

We choose Global Tel*Link because, at the time of our 2013 report, they had the shortest account seizure policy, as short as 90 days. While they have since removed this policy from their website, we wanted to see what their actual practice was,⁶ and we wanted to collect this evidence before the closure of the FCC's comment period.

⁴ See Exhibit 1, a sample of complaints to the Better Business Bureau and Consumer Affairs about Global Tel*Link seizing funds. What is notable about these complaints is both the willingness that Global Tel*Link has to restore seized funds to customers who complain, and that they document a particularly unnecessary practice on the part of Global Tel*Link that we have not previously brought to the FCC's attention despite numerous complaints from families: Global Tel*Link requires separate deposits – and separate deposit fees — for each phone number on an individual's account. This is not only an unnecessary expense for families, it is also a business arrangement that makes it that much easier for an account to go unused for 90 days making those funds eligible for seizure.

⁵ For example, Securus tells the FCC that refund fees are “restrictive and unwarranted”, yet they keep the fee in their tariffs despite, in at least our testing, not charging that fee.

⁶ But as of August 11, 2014 Global Tel*Link was asserting that “...unused funds in an inmate debit account are refundable upon request by the inmate, that the balance of available usage expires three months from the date of last activity, and that no refunds of unused balances are available after the

On September 29, 2014, Peter Wagner made a deposit of \$25 to the number (413) 923-8478. After paying a fee of \$7.95, he had a balance of \$17.05. On December 29, the balance available for calls was \$0. (See Exhibit 2 for the receipt and account statement.) Our funds had been seized.

While families have told us of calling customer service to complain and of being rebuffed, we wanted to confirm that these funds were actually gone as we had also heard other rumors that Global Tel*Link would return these funds on request. After four calls on December 29 and January 10 that included lengthy trips through automated phone trees leading to dead ends like messages that Global Tel*Link was closed for the holidays and referrals to dial numbers that aren't in service, we spoke "Leo" who explained that the funds were "expired" and that he would return them to our account.⁷

Conclusion: Global Tel*Link seized our money after 90 days of inactivity, although apparently if you can reach a human being, it's easy to get the funds restored.

Question 2: Are companies in this industry turning over unclaimed funds to the state unclaimed funds programs?

All states require companies to turn over consumer's funds to an unclaimed funds program administered by the state. These unclaimed funds programs allow residents to check their names in a database of unclaimed property and discover money or other property they may have forgotten. This might include final paychecks, unreturned housing deposits, or other balances. The idea is that companies are supposed to try to return funds that belong to customers, and when that effort fails after a statutorily defined period of time, they are to turn the funds over to the state. The state then holds that money in trust for the person indefinitely. (The state makes interest on this money, which no doubt pays for the work involved.)

We found that in Massachusetts, for example, Global Tel*Link does not report any unclaimed funds to the Commonwealth of Massachusetts Department of the State Treasurer despite providing phone services to people incarcerated in Massachusetts Department of Correction facilities as well as the Plymouth County and Hampden County jails. Similarly, ICSolutions fails to report any unclaimed funds in the state despite providing phone services to people incarcerated at the Hampshire County jail. Securus, however, which has contracts with five county jails in the state, reported unclaimed funds for over 950 customers in one year alone, totaling over \$23,000.

Unfortunately, Massachusetts's experience appears to be typical for the industry. For the states that provided responsive documents, this table shows that only a few companies are turning over their customers' unclaimed funds:

expiration date." See August 11, 2014 Comment from Global Tel*Link's to the Alabama Public Service Commission re Docket No. 15957.

⁷ And strangely, he returned both our balance and the deposit fee.

Company	California	Florida	Massachusetts	Michigan	New York	Ohio	Pennsylvania	Texas
Amtel								
CenturyLink ⁸	√		√	√	√		√	√
City Tele Coin								
Combined Public Communications								
Global Tel*Link								
ICSolutions								
Legacy								
NCIC								
Pay Tel	√	√			√			
Securus	√	√	√	√	√	√	√	√
Telmate								

The amount of money being siphoned off by the companies is significant. In Texas, for example, the average account balance reported by Securus was nearly \$28.⁹ It is obviously impossible to know exactly how much money the phone companies are seizing and failing to report, but based on the reports we did obtain, we believe the issue is large enough to warrant the FCC's attention.

Conclusion: Some companies in the prison and jail telephone industry are seizing consumer funds and are not reporting these unclaimed funds to the states.

Methodology

We submitted open records requests to the unclaimed funds administrators of the 15 largest states in the nation, asking for: "copies of annual Unclaimed Property Reports for the following Inmate Service Providers during the most recent three-year period." And requested that the respondent indicate "[i]f a provider failed to submit an Unclaimed Property Report for any or all of the most recent three-year period...."

Ideally, we wanted to get the owners names and amounts of the money turned over by each company because we wanted to distinguish between funds that are due telephone customers are payments that are due to subcontractors (such as an on-site electrician) or payments due as a result of unrelated businesses (like CenturyLink's cable television business).

We choose to request records for 11 the companies in this market: Amtel, CenturyLink, City Tele Coin, Combined Public Communications, Global Tel*Link,

⁸ CenturyLink is largely a public internet, phone, and television provider, there is no way for us to tell whether any of the reported funds were from its ICS customers. In Pennsylvania for example, most of the property types listed were dividends.

⁹ This figure is from 2012, the most recent year for which the reports were released, as there is a 2-year confidentiality period.

ICSolutions, Legacy, NCIC, Pay Tel, Securus, and Telmate. Please note that we requested records for all 11 companies from all 15 states, without attempting to verify whether those companies currently or recently provided prison or jail telephone services in that state. Therefore, some of the smaller companies which our findings show are not turning over money in a given state may not be reporting anything simply *because they aren't collecting any money in that state*. But for the major vendors, the failure to report and turn over unclaimed funds is especially noteworthy.

While we had hoped to get full reports, some states — possibly due to concerns about privacy rules surrounding unclaimed funds — refused to provide data or provided only summary information. Nevertheless, as you read above, these summary reports still allowed us to get a sense for how much money each company was reporting, as well as where certain companies were failing to report altogether.

Here is a summary of the scope of information we were able to get from the 15 states:

State	State responded to initial inquiry or follow-up	State provided individual consumer amounts for each company	State provided a summary of consumer amounts for each company
Arizona	√		
California	√		√
Florida	√		√
Georgia	√ ¹⁰		
Illinois	√		
Massachusetts	√	√	
Michigan	√		√
New Jersey			
New York	√		√
North Carolina			
Ohio	√	√	√
Pennsylvania	√	√	
Texas	√	√	√
Virginia	√		
Washington	√		

The responses from Arizona, California, Florida, Illinois, Massachusetts, Michigan, New York, Ohio, Pennsylvania, Texas, Virginia, and Washington are attached as Exhibits 3 through 14.

Conclusion and Recommendation

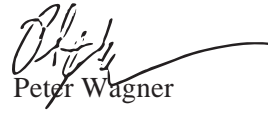
When the Alabama Public Service Commission tackled the problem, it was stunned by the twisted logic that Global Tel*Link presented to rationalize its practice of seizing customer money.¹¹ The FCC should not be caught unaware. The FCC should take

¹⁰ The state acknowledged our inquiry, but as of the time of this submission the state has yet to provide any responsive information.

¹¹ The Alabama PSC writes: “We summarize GTL’s position as follows: (1) Alabama law says that a refund due an ICS customer is unclaimed if not requested one year after it becomes payable; (2) the

unclaimed funds into consideration when drafting further regulation of ancillary services and fees.

Sincerely,



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Commission requires that ICS providers refund unused prepaid balances and has defined when the one-year dormancy period ends for the refund to be deemed unclaimed; (3) GTL invokes its own rule by tariff which provides that the customer's unused prepaid balance in the account expires after three months; (4) GTL does not permit refunds after that date despite Alabama Law and/or Commission rules to the contrary; (5) there is no unclaimed refund after one year because GTL seized the customer's funds after three months; (5) therefore, GTL is compliant with Alabama law and/or Commission rules. The Commission rejects GTL's flawed, misguided, and legally non-compliant treatment of customer refunds and unclaimed property. Unused balances in prepaid ICS accounts including inmate debit, prepaid inmate calling cards, and all other prepaid ICS accounts cannot legally be declared "expired" by the ICS provider." See Alabama Public Service Commission, §9.06, *Further Order Adopting Revised Inmate Phone Service Rules*, Docket 15957, December 9, 2014