

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg PA 17105-3265**

Public Meeting held May 1, 2008

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Tyrone J. Christy
Kim Pizzingrilli

Jon E. Yount, AC-8297, *et al.*

Docket No. C-20042655

v.

T-Netix, Inc. and
T-Netix Telecommunications, Inc.

OPINION AND ORDER

Before the Commission for consideration are the Exceptions of T-Netix Inc. and T-Netix Telecommunications, Inc. (T-Netix) and Jon E. Yount, AC-82-97, *et al.* dated February 26, 2007, and February 6, 2007, respectively, to the Initial Decision of Administrative Law Judge (ALJ) Louis G. Cocheres, issued January 23, 2007.¹ T-Netix filed Replies to Exceptions on March 8, 2007.

¹ By letter dated February 7, 2007, the Secretary of the Commission advised the parties that the deadline for Exceptions was extended to February 26, 2007.

History of the Proceeding

This case is one of a series of cases involving the efforts of T-Netix to provide telephone service to prison inmates throughout Pennsylvania. On March 22, 2004, Jon E. Yount, AC-8297, filed a Complaint against T-Netix. Twenty-one other inmates² joined in Mr. Yount's Complaint. The Complaint addressed two issues: "(a) multiple cut-off interruptions during prepaid calls at the user's expense, and (b) erroneous disconnection of calls." Complaint at 4. In support of the Complaint, it was alleged, *inter alia*, that: (1) Mr. Yount used collect calls and/or a prepaid account through the prison commissary to pay for phone calls; (2) Mr. Yount or a recipient of a collect call paid for the time used for message overlays which preempted his conversations; (3) the overlay messages informed the parties to the calls that the calls were from a correctional institution and subject to monitoring and recording and that custom calling features were prohibited; (4) after the initial message was played, the overlays interrupted conversations a maximum of 3 times during a 15-minute conversation; (5) Mr. Yount was not receiving the full 15 minutes of conversation for which he was paying; (6) Mr. Yount completed a Department of Corrections (DOC) grievance form and was denied relief; (7) the security feature designed to detect the use of custom-calling features was defective and improperly disconnected calls; (8) the cost to reconnect an improperly disconnected call was a \$3.45 connection fee for out-of-state prepaid calls and \$4.35 for collect calls which increased profits for

² The other inmates were: Michael K. Meehan, BE-3945, Unique Pinkney (later released), Richard Morris, FL-1531, Neil Rosethal, FN-0695, Jeffrey P. Moser, Paul Studenroth, AH-2234, Joseph M. Strohl, CM-2097, Terry Johnson, FB-7188, Charles Norris, FG-9075, Ed Iaccarino, FB-0234, Bernard Hall EL-0234, Armenious Alston, AY-8284, Harry L. Beckett, BZ-1379, James C. Tardio, FN-5537, James Milliner, CA-0132, Wilmer B. Gay, AF-2709, James A. Paluch, Jr., BQ-3769, Sean Johnson, EG-2035, Eugene Banks, AM-7317, Tariq Kelly, EW-7221, and Richard Phelps, AM-8511.

T-Netix and the commissions for the DOC; and (9) Mr. Yount's requests to the local T-Netix representative for reimbursement were denied. I.D. at 1.

The Complaint requested the following relief: (1) that the preemptive overlays be stopped; (2) that the improper disconnection of calls, due to the failure of the inmate telephone system to be able to distinguish the use of custom calling features from other noises, be eliminated; (3) that refunds, including interest at the legal rate, be paid to the inmates for all improperly-collected telephone fees; and (4) that the DOC and/or T-Netix and/or Verizon Select Services, Inc. (VSSI)³ create a workable method for the filing of complaints, processing of refunds and processing of complaints in good faith. I.D. at 2.

By letter dated September 10, 2004, T-Netix filed its Answer to the Complaint.⁴ With respect to the allegations about announcements or interruptions to the inmate calls, T-Netix: (1) admitted that the announcements occurred; (2) explained that the announcements were required by the DOC for security purposes; (3) explained that the announcements were intended to warn the parties to the conversation that the calls were subject to monitoring and recording and that using custom calling features would result in disconnection of the call; (4) admitted that the time used for the announcements was included in the cost of the call as paid by the inmate (prepaid call) or call recipient (collect call); (5) denied that the system for disconnecting calls was defective; and (6) explained that the purpose of the security system was to prevent the parties from adding additional parties to a telephone conversation. T-Netix also admitted that it has not issued

³ The Complaint also noted that T-Netix appeared to have merged with VSSI. The ALJ denied Mr. Yount's request to amend the Complaint to add VSSI as an additional respondent by Interim Order dated June 20, 2005.

⁴ The ALJ found that T-Netix failed to file an Answer to the Complaint in a timely fashion pursuant to 52 Pa. Code § 5.61(a). I.D. at 66.

any refunds for calls disconnected as a result of restrictions on the use of customer calling features. Ans. at 1-3.

Hearings took place, as a series of video conferences, on September 28, 2004, and June 9 and 28, 2005. Additional telephonic hearings were held on November 14 and 18, 2005. At each hearing, the Complainants were given the opportunity to present their evidence and were cross-examined. T-Netix presented its witnesses and exhibits at each of the hearings for each group of inmates. The inmates all had the opportunity to testify and to cross-examine each of T-Netix's witnesses. The record was closed on December 16, 2005. Twenty-three inmates presented their own testimony and that of four additional witnesses, as well as various documentary exhibits. T-Netix presented testimony from two witnesses and a limited number of exhibits. The transcript consisted of 760 pages. No briefs were filed. I.D. at 3.

On January 23, 2007, the ALJ issued his Initial Decision in which he concluded that the overlays that preempted the parties' conversations did not violate the Public Utility Code (Code) or the Commission's Regulations. *See, e.g., Feigley v. T-Netix, Inc. and T-Netix Communications Services, Inc.*, Docket Nos. C-20029138 and C-20029154 (Order entered April 20, 2006); *Sandra and George Feigley v. Verizon Select Services, Inc.* Docket No. C-20043621 (Order entered April 20, 2006). Conclusion of Law No. 6, I.D. at 69.

With regard to improper disconnections by the Automated Inmate Telephone System (AITS), the ALJ found that the following claims for refunds must be dismissed for failure to meet the burden of proof: Mr. Phelps, Mr. Milliner, Mr. Beckett, Mr. Meehan, Mr. Gay, Mr. Strohl, Mr. Terry Johnson, Mr. Moser, Mr. Hall, Mr. Alston, Mr. Iaccarino, Mr. Paluch, and Mr. Luterman. Mr. Smith's claim for refunds for the period up to and including August 2003, was

dismissed for failure to meet the burden of proof, but his claim for refunds for the period after August 2003 were dismissed without prejudice. Conclusions of Law Nos. 19-23, 26-31, 34, 38, 40-45.

The ALJ sustained the portions of the Complaint regarding claims for refunds for improper disconnections by the AITS for the following parties: Jon C. Yount for calls made on December 12 and 13, 2003; Sean Johnson for calls made to his ex-wife in September through November, 2003; James C. Tardio for calls made on January 19, February 18, February 26 and April 1, 2003 and/or 2004; and Tariq Kelly for calls made on August 30, 2005, and October 7, 9 and 10, 2005. The ALJ also found that T-Netix violated Section 1501 of the Code, 66 Pa. C.S. § 1501 by failing to report the results of its investigation of Mr. Tardio's complaint to Mr. Tardio and the ALJ, despite its commitment to do so. As a result, the ALJ imposed a civil penalty of \$1,000 on T-Netix, pursuant to the standards set forth in *Joseph Rosi v. Bell Atlantic-Pa., Inc. and Sprint Communications Company*, Docket No. C-00992409 (Order entered February 10, 2000) (*Rosi*).

Jon Yount filed Exceptions on February 6, 2007, and T-Netix filed Exceptions on February 26, 2007. T-Netix filed Reply Exceptions on March 8, 2007.

Discussion

This Commission has had occasion to address several complaints involving the rates, terms, conditions and quality of telephone service provided to prison inmates. Because of incarceration, inmates are subject to Pennsylvania Department of Corrections (DOC) regulations and internal prison operations policies relative to access to telephone utility services. *Sandra L. Feigley v. AT&T*

Communications of Pa., Inc., Docket No. C-00981434 (Order entered April 30, 2001) (*Feigley I*), affirmed, *Sandra L. Feigley, et al. v. Pennsylvania Public Utility Commission*, 794 A.2d 428 (Pa. Cmwlth. 2002), appeal denied sub nom; *C.U.R.E. of Pennsylvania v. Pennsylvania Public Utility Commission*, 569 Pa. 723, 806 A.2d 863 (2002); *George Feigley v. T-Netix, Inc. and T-Netix Telecommunications, Inc. and Sandra Feigly v. T-Netix, Inc. and T-Netix Telecommunications, Inc.*, Docket Nos. C-20029138 and C-20029154 (Order entered April 26, 2006) (*Feigley II*). See also, *Susan Strandberg v. T-Netix, Inc. and T-Netix Telecommunications, Inc.*, Docket No. C-20039780, Order entered February 16, 2006 (*Strandberg*): *Preston B. Pfeifly, et al. v. T-Netix, Inc., T-Netix Telecommunications Services, Inc. and Verizon Select Services, Inc.* at Docket Nos. C-20042802, C-20042852, C-20042878 and C-20042879 (Order entered December 27, 2007) (*Pfeifly*).

As noted by ALJ Cocheres, most of these recent cases brought by inmates contain issues similar to those addressed in the instant Formal Complaint. Any differences in outcome will be dependent on the differences in the evidentiary record created by the parties. I.D. at 47

The ALJ made 341 Findings of Fact and forty-five Conclusions of Law. The Findings of Fact and Conclusions of Law are incorporated, herein, by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Code, 66 Pa. C.S. § 332(a), which provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most

civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

Mr. Yount’s Exceptions

The DOC requires that the inmate telephone system make preemptive security announcements that interrupt telephone conversations. In his first Exception, Mr. Yount complains that, despite the evidence in the case, the Initial Decision failed to require T-Netix to use newer technology to modify the security system so that security announcements would be less intrusive. Mr. Yount cites the testimony of a T-Netix witness, Mr. Batts, and the DOC Deputy Secretary in support of his Exception. (Yount Exc. at 1-2).

T-Netix replies that the Commission has already concluded that the preemptive announcements are based on valid security concerns of the institution. T-Netix contends that it was simply complying with DOC policy and that the Commission lacks jurisdiction over such policy. T-Netix also states that its witness, Mr. Batts, testified that it was technologically possible to reduce the volume of the announcements, but the announcements would continue to preempt the conversations. R. Exc. at 2; Tr. at 686-687.

Upon review and consideration of the record, we agree with the ALJ that the preemptive announcements, while intrusive, were reasonable under the circumstances. The ALJ also considered the testimony of the Deputy Secretary of

Corrections, Dr. John Shaffer, who testified that he had asked Verizon⁵ about adjusting the announcements so that they would not preempt the conversations. He was told that Verizon was technologically unable to accommodate the request. I.D. at 50. As a result, the ALJ found in favor of T-Netix regarding the issue of the preemptive announcements. The ALJ's conclusion is consistent with our decision regarding the issue of the DOC's preemptive announcements in *George Feigly v. Verizon Select Services, Inc., et al.*, Docket Nos. C-20029138 and C-20029154 (Order entered April 24, 2006) at 11-13. Accordingly, we will deny Mr. Yount's first Exception.

In his second Exception, Mr. Yount objects to the ALJ's failure to require T-Netix to correct or discontinue the monitoring aspect of the inmate security system that erroneously disconnects inmates' prepaid and collect calls. Mr. Yount contends that this system can and should be improved and, that this Commission should require those improvements. In the alternative, Mr. Yount believes that the Commission should revoke or suspend T-Netix's certificate to operate in Pennsylvania. Yount Exc. at 2-5.

In its Reply Exceptions, T-Netix asserts that the ALJ properly considered disconnections on a case-by-case rather than a general basis. T-Netix, however, continues to except to the ALJ's findings that certain inmates had met their burden of proof. R.Exc. at 1-6.

Upon review and consideration of the record, we conclude that the ALJ correctly considered each complaint in this proceeding on a case-by-case

⁵ Dr. Shaffer testified that, during 2003-2004, Verizon was the prime contractor for the DOC telephone system. T-Netix was a subcontractor that provided the computerized system that managed the calls. T-Netix's automated control processor limited each inmate to twenty approved phone calls that were recorded and monitored. Findings of Fact Nos. 196-200.

basis. It was appropriate for the ALJ to consider the service provided to each of the inmates complaining of erroneous disconnections. The Commission may determine if service provided by a public utility is adequate, efficient, safe and reasonable. 66 Pa. C.S. § 1501. The Commission may also impose civil penalties, as appropriate. However, the Commission will not tell a utility how to manage its business. Accordingly, Mr. Yount's second Exception is denied.

In his third Exception, Mr. Yount complains of the relief given by the ALJ. Mr. Yount contends that T-Netix should be required to establish "an explicit, readily accessible, expedient and non-pretextual inmate-customer complaint process, particularly regarding refund issues." Yount Exc. at 1, 5-6. Mr. Yount contends that the Commission should supervise and require a customer-friendly complaint system for DOC inmates.

T-Netix replies that Mr. Yount's third Exception must be denied because: (1) the Commission lacks jurisdiction over the DOC grievance process; and (2) the inmates have recourse through the Commission's complaint process. R.Exc. at 5-6.

Upon review and consideration of the record, we agree with the ALJ that inmates who use their prepaid accounts to pay for calls and who comply with DOC security requirements are customers and they are entitled to adequate, safe and reasonable service and facilities. We also agree that T-Netix provided inadequate service by improperly disconnecting *bona fide* calls made by the inmates. T-Netix's failure to investigate the inmates' complaints and its failure to make refunds, when appropriate, compounded the negative effect of the unreasonable service.

While we will not tell T-Netix how to run its business, we will impose civil penalties, when necessary, to discourage such violations. Under the “management discretion doctrine,” the Commission may not interfere with or micromanage utility management decisions, unless there is a manifest abuse of discretion or some showing of arbitrary utility action. *Pa. PUC v. Philadelphia Electric Company*, 522 Pa. 338, 561 A.2d 1224 (1989); and *Petition of Frank Bankard*, Docket No. P-00052172 (Order entered April 21, 2006). Accordingly, we will deny Mr. Yount's third Exception because it requests that we oversee T-Netix’s management.

T-Netix Exceptions

T-Netix has filed two Exceptions to the Initial Decision. First, T-Netix objects to the ALJ’s finding that T-Netix rendered inadequate service by improperly disconnecting *bona fide* calls connected to the public switched network. In support of this Exception, T-Netix asserts that the Code does not mandate perfect service or even the best possible service. T-Netix opines that its service is adequate because only one percent of the inmate calls placed between January and August 2005, were disconnected because of suspected three-way call attempts. T-Netix Exc. at 4. T-Netix asserts that it uses the best available technology for its inmate service and that it would adjust the sensitivity of the system if the DOC were to request an adjustment. T-Netix Exc. at 5.

T-Netix also contends that the evidence in this case does not support the conclusion that T-Netix provided inadequate service because many of the allegations of improper disconnections by Complainants Yount, Sean Johnson, Tardio and Kelly did not identify specific dates of occurrences. T-Netix Exc. at 6-7. For those parties who did identify specific dates, T-Netix argues that, if the

reasons for the disconnections are not known, then it is not possible to determine whether the disconnection was appropriate or not. T-Netix also contends that the ALJ's finding of inadequate service related to calls that took place after the filing date of this Complaint are not properly within the scope of the Complaint. T-Netix Exc. at 8. T-Netix also cites as notice to the inmates a policy statement published by the DOC in August 2005, that explains the various reasons why a call could be terminated under the inmate phone system. T-Netix Exc. at 9.

In his Initial Decision, the ALJ relied on our Order in *Pfeifly*, wherein we adopted the conclusion that T-Netix was operating as a regulated public utility because it was a certificated IXC and because it owned the telephone equipment which made up the AITS. As such, T-Netix is subject to the obligation to "furnish and maintain adequate, efficient, safe, and reasonable service and facilities." 66 Pa. C.S. § 1501. However, in *Pfeifly*, none of the Complainants were able to carry the burden of proving inadequate service.

In the instant case, the ALJ concluded that several of the Complainants had met their burden of proof. Upon review and consideration of the record, we find that we agree with the ALJ. Mr. Yount, Mr. Sean Johnson, Mr. Tardio and Mr. Kelly were able to establish that they had placed calls to DOC-approved numbers; that they had not violated the DOC prohibition of attempting a three-way call or call-forwarding and that the calls were disconnected improperly. The fact that specific dates were not given in all cases for the improperly disconnected calls is not fatal because the time periods described were sufficiently limited. *See* I.D. at 34.

T-Netix argues that, since such disconnections occur just one percent of the time, T-Netix's service is acceptable. We agree with T-Netix that a public utility's service need not be perfect. We also appreciate the fact that T-Netix's

contract with the DOC required the implementation of a security system that would detect and disconnect the use of the two prohibited custom calling features: three-way calling and call forwarding. We also note that T-Netix manufactured and owned the telephone equipment (AITS) used in the prisons and that the sensitivity of the system could be adjusted. Findings of Fact Nos. 42, 104.

We are troubled that T-Netix did not regard the inmates as customers, even when their calls were paid for using the inmates' prepaid accounts. Finding of Fact No. 40. While erroneous disconnections may be relatively infrequent, such disconnections are unacceptable when they do occur. While the erroneous disconnections themselves are difficult enough for the inmates, the fact that T-Netix has done little or nothing to investigate complaints or to make refunds, when appropriate, is unacceptable. We conclude that T-Netix rendered inadequate service by improperly disconnecting *bona fide* calls connected to the public switched network and by failing to reimburse the Complainants for the costs of reconnecting calls. Accordingly, we shall deny T-Netix's Exception.

T-Netix also argues that a finding of inadequate service related to calls made after March 22, 2004, the filing date of this Complaint, are not properly within the scope of the Complaint. Exc. at 8. We disagree with T-Netix on this point. T-Netix had the opportunity to cross-examine and rebut the testimony of these witnesses. Thus, principles of fairness and due process were observed.

The DOC policy statement published in August 2005, that explains the reason why a call could be terminated under the inmate phone system serves as notice only from August 2005 forward. The publication of the policy statement also indicates that the problem that existed in 2004 continued into 2005. Additionally, the policy statement does not absolve T-Netix from providing

reasonable service and the erroneous disconnection of a *bona fide* call is not reasonable.

In its second Exception, T-Netix objects to the ALJ's decision to impose a civil penalty upon T-Netix. T-Netix believes that it should not be penalized for any failure to submit information that might have been caused by a change in counsel in December 2005. Present Counsel for T-Netix offers to supply the report requested by the ALJ concerning a September 19, 2004, call that was never sent to the ALJ. T-Netix requests that, if it is determined that a civil penalty is appropriate, that it not exceed \$100. T-Netix Exc. at 10-11.

When the ALJ analyzed the issue of a civil penalty in the Initial Decision, he took into consideration T-Netix's failure to follow through with representations made at the hearing and to supply certain information to Mr. Tardio and to the ALJ by October 1, 2004. We are unpersuaded that T-Netix's change of counsel in December 2005, mitigates T-Netix's failure to provide information to the ALJ in October 2004. Accordingly, T-Netix's second Exception is denied.

We are adopting the ALJ's findings and conclusions with regard to the erroneous disconnection of calls made by Mr. Yount, Mr. Johnson, Mr. Tardio and Mr. Kelly as well as T-Netix's failure to provide refunds. The ALJ analyzed the issue of an appropriate penalty using the criteria set forth in *Rosi*. Since then, we have instituted a final *Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and the Commission's Regulations (Policy Statement)*, Docket No. M-00051875 (Order adopted November 30,

2007).⁶ Under the final *Policy Statement*, many of the *Rosi* standards will still be applied.

Under the *Policy Statement*, the Commission will consider the following criteria:

1. Whether the conduct and the consequences of the conduct at issue were of a serious nature. When the conduct and its consequences are serious, a higher civil penalty may be warranted.
2. Whether the regulated entity made an effort to modify internal practices and procedures to address the conduct at issue and to prevent similar conduct in the future. Those remediation measures may include activities such as training and improving company practices and supervision.
3. The number of customers affected and the duration of the violation.
4. The compliance history of the regulated entity which committed the violation.
5. Whether the regulated entity cooperated with the Commission's investigation. Evidence of bad faith, active concealment of violations or attempts to interfere with Commission investigations may result in a higher penalty.
6. The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.
7. Other relevant factors.

⁶ The final *Policy Statement* became effective upon publication in the Pennsylvania Bulletin on December 22, 2007. 52 Pa. Code § 69.1201.

The first criterion is whether the conduct and the consequences of the conduct are serious. When the conduct is of a serious nature, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as errors in administrative filings or other technical errors, it may warrant a lower penalty. We find that T-Netix's disregard for the inconvenience and expense incurred by the inmates due to erroneous call disconnections is a serious problem.

The second criterion is whether the regulated entity has made an effort to modify internal practices and procedures to address the conduct at issue and to prevent similar conduct in the future. Noises made by children, slamming doors, call waiting, clicks and static on the line were not within the inmates' control. T-Netix, however, did not consider the inmates to be customers and did not adjust the sensitivity of the AITS because the DOC did not request it. T-Netix also had the power to issue refunds when it believed that a refund was warranted, but no refunds for call disconnections were made. Since T-Netix has not provided IXC services to the prison system since 2004, it appears that there will be no similar conduct in the future.

The third criterion is the number of customers affected and the duration of the violation. The violation which gave rise to the instant Complaint involved twenty-two Complainants, even though only four Complainants testified in sufficient detail to substantiate their right to refunds.

The fourth criterion is the compliance history of the regulated entity which committed the violation. Review of Commission records reveals that there have been other cases in which T-Netix has flouted the Commission's Regulations.

The fifth criterion is whether the regulated entity cooperated with the Commission. Generally speaking, T-Netix participated in this proceeding before the ALJ in an appropriate manner. However, T-Netix's Answer to this Complaint was not timely and T-Netix did not submit a report to the ALJ after agreeing to do so. I.D. at 67.

The sixth criterion is whether the amount of the proposed civil penalty is sufficient to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount. As noted above, T-Netix no longer provides IXC services for the DOC.

Based on these criteria, we conclude that a \$1,000 civil penalty for T-Netix's violations of Section 1501 is appropriate.

Conclusion

Based on the foregoing, we shall adopt the ALJ's Initial Decision consistent with the discussion contained in this Opinion and Order;

THEREFORE,

IT IS ORDERED:

1. That the Exceptions of T-Netix, Inc. and T-Netix Telecommunications Services, Inc. are denied, consistent with the discussion contained in this Opinion and Order.

2. That the Exceptions of Jon E. Yount, AC-8297, *et al.* are denied, consistent with the discussion contained in this Opinion and Order.

3. That the Initial Decision of Administrative Law Judge Louis G. Cocheres is adopted, consistent with this Opinion and Order.

4. That the Formal Complaint of Jon E. Yount, AC 8297, *et al.* is sustained, in part, and dismissed, in part, consistent with this Opinion and Order.

5. That those portions of the Complaint regarding announcement overlays which preempted telephone conversations between the inmates and their families, friends, attorneys, etc. are hereby dismissed.

6. That those portions of the Complaint regarding the claims for refunds for improperly disconnected calls by the Automated Inmate Telephone System from Richard Phelps, AM-8511, James Milliner, CA-0123, Harry L. Beckett, BZ-1379, Michael Meehan, BE-3945, Wilmer G. Gay, AF-2709, Joseph M. Strohl, CN-2097, Terry Johnson, FV-7188, Jeffrey P. Moser, Bernard Hall, EL-0234, Armenious Alston, AY-8284, Edward Iaccarino, FB-3661, James A. Paluch, Jr., BQ-3769, and Martin Luterman, GK-6040, are hereby dismissed.

7. That those portions of the Complaint regarding the claims for refunds for improperly disconnected calls by the Automated Inmate Telephone System for the period up to and including August 2003 from Donald Smith, GD-3969, are hereby dismissed.

8. That those portions of the Complaint regarding the claims for refunds for improperly disconnected calls by the Automated Inmate Telephone System for the period following August 2003, from Donald Smith, GD-3969, are hereby dismissed without prejudice.

9. That those portions of the Complaint regarding the claims for refunds for improperly disconnected calls by the Automated Inmate Telephone System from Jon E. Yount, AC-8297, for calls made on December 12 and 13, 2003, are hereby sustained.

10. That T-Netix shall, within thirty (30) days of receipt of the final Commission Order, refund the amount of \$6.90 for connection fees for both of Mr. Yount's calls (one each at \$3.45 per call on December 12 and 13, 2003) plus interest at the legal rate for each fee starting on the dates noted above and notify Mr. Yount and the Commission Secretary when the tasks were completed and the amount of the refunds credited to his account.

11. That those portions of the Complaint regarding the claims for refunds for improperly disconnected calls by the Automated Inmate Telephone System from Sean Johnson, EG-2035, for calls made to his ex-wife's home in period of September, October and November of 2003, are hereby sustained.

12. That T-Netix shall: (1) contact Sean Johnson, EG-2035, for the purpose of identifying the phone number at his ex-wife's home; (2) search its records for all calls made to that number in September, October and November of 2003; (3) identify any disconnections which were coded as three-way call attempts in period of September, October and November of 2003; (4) identify any call reconnections which occurred on the same day; (5) refund the initial reconnection fee plus interest at the legal rate from the date of each reconnection; (6) notify Mr. Johnson and the Commission Secretary when the tasks were completed and the amounts of the refunds credited to his account; and (7) complete the task within thirty (30) days of the Commission's final order in this case.

13. That those portions of the Complaint regarding the claims for refunds for improperly disconnected calls by the Automated Inmate Telephone System from James C. Tardio, FN-5537, for calls made on January 19, February 18, February 26 and April 1 of 2003 and/or 2004, and September 19, 2004, are hereby sustained.

14. That T-Netix shall: (1) contact Mr. Tardio for the purpose of identifying the phone numbers at issue on those dates; (2) search its records for all calls made to those numbers; (3) identify any disconnections which were coded as three-way call attempts; (4) identify any call reconnections which occurred on the same day; (5) refund the initial reconnection fee plus interest at the legal rate from the date of each reconnection; (6) notify Mr. Tardio and the Commission Secretary when the tasks were completed and the amounts of the refunds credited to his account; and (7) complete the task within thirty (30) days of the Commission's final order in this case.

15. That the withdrawal of that portion of the complaint related to Richard Morris, FL-1531, is hereby approved.

16. That the withdrawal of that portion of the complaint related to Neil Rosenthal, FN-0695, is hereby approved.

17. That the withdrawal of that portion of the complaint related to Charles Norris, FG-9075, is hereby approved.

18. That those portions of the Complaint regarding the claims for refunds for improperly disconnected calls by the Automated Inmate Telephone System from Tariq Kelly, EW-7221, for calls made on August 30, 2005, and October 7, 9 and 10, 2005, are hereby sustained.

19. That T-Netix shall: (1) contact Mr. Kelly and Ms. Williams for the purpose of identifying the phone numbers at issue on those dates; (2) search its records for all calls made to those numbers; (3) identify any disconnections which were coded as three-way call attempts; (4) identify any call reconnections which occurred on the same day; (5) refund the initial reconnection fee plus interest at the legal rate from the date of each reconnection; (6) notify Mr. Kelly and Ms. Williams and the Commission Secretary when the tasks were completed and the amounts of the refunds credited to their accounts; and (7) complete the task within thirty (30) days of the Commission's final order in this case.

20. That T-Netix shall within thirty (30) days of receipt of the final Commission Order pay a civil penalty of \$1,000 as provided for in Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301, by sending a certified check or money order made payable to the Pennsylvania Public Utility Commission and mail it to:

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

21. That a copy of this Opinion and Order shall be served upon the Financial and Assessments Chief of the Commission's office of Administrative Services.

22. That T-Netix, Inc. and T-Netix Telecommunications Services, Inc., cease and desist from further violations of the Public Utility Code and the Commission's Regulations.

23. That the Commission Secretary upon receipt of notices from T-Netix, Inc. and T-Netix Telecommunications Services, Inc., that they refunded the appropriate amounts due in accordance with paragraphs 9 (Mr. Yount, AC-8297), 11 (Sean Johnson, EG-2035), 13 and 15, (James C. Tardio, FN-5537) and 20 (Tariq Kelly, EW-7221) and notice from the Commission Fiscal Office that T-Netix, Inc. and T-Netix Telecommunications Services, Inc., paid the \$1,000 Civil Penalty, shall mark this proceeding closed.

BY THE COMMISSION,

James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: May 1, 2008

ORDER ENTERED: May 2, 2008