

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

GLOBAL TEL*LINK, et al.,
Petitioners,
v.
FEDERAL COMMUNICATIONS
COMMISSION, and
THE UNITED STATES OF AMERICA,
Respondents.
Case No. 15-1461 (and
consolidated cases)

AFFIDAVIT OF TINA HICKS

State of Oklahoma)
) ss
County of Oklahoma)

I, Tina Hicks, of lawful age, being first duly sworn upon my oath, hereby state the following:

- 1. The following statements are true and correct to the best of my personal knowledge.
2. I am the Chief of Administrative Services for the Oklahoma Department of Corrections. My job responsibilities include overseeing the Department's contracts with outside vendors, its information technology system, and personnel management.
3. My job responsibilities include oversight of any contract between the Oklahoma Department of Corrections and a provider of inmate calling services that would be affected by the Federal Communications Commission's Order published on December 18, 2015.
4. The Oklahoma Department of Corrections currently has a contract with Value-Added Communications, Inc., to provide inmate calling services at prisons operated by the Department.

5. Value-Added Communications, Inc., was awarded the contract to provide inmate calling services after participating in a competitive bidding process governed by Oklahoma's public purchasing laws.

6. In 2011, Global Tel*Link Corporation purchased Value-Added Communications, Inc., which continues to operate as an independent subsidiary and to provide inmate calling services in Oklahoma prisons.

7. The contract between the Oklahoma Department of Corrections and Value-Added Communications, Inc., whose terms were set in 2011 to begin in effect on January 1, 2012, sets the rates that inmates pay for telephone service and for other services.

8. The rates set out in the contract include a \$3.00 flat charge for a 15-minute phone call. The contract also allows a \$4.75 transaction fee for using a credit card, debit card, or electronic check to deposit money. The contract prohibits all other ancillary charges, although taxes or fees mandated by a government entity can be added to the cost of a call.

9. The contract also specifies that the Oklahoma Department of Corrections would receive \$2.30 of revenue for each \$3.00 phone call charge.

10. The average call length since the contract went into effect has been about 13.49 minutes. That means that inmates paid an average of about \$0.22 per minute for calls, the Oklahoma Department of Corrections received about \$0.17 per minute, and Value-Added Communications, Inc., retained about \$.05 per minute.

11. The contract operated without the effects of Federal Communications Commission rate setting during the entirety of 2012 and 2013.

12. During 2012 and 2013, there were an average of 1,318,099.5 inmate phone calls in Oklahoma prisons. There were an average of 17,764,903 minutes in calls during those years. The

Oklahoma Department of Corrections received an average of \$3,037,883.525 per year in revenue during each of those years.

13. During March 2014, the Federal Communications Commission's interim rates for interstate calls went into effect.

14. During 2014, there were 1,509,188 inmate phone calls, and the Oklahoma Department of Corrections received \$3,030,112.76 in revenue. There were 20,363,911 phone call minutes in 2014.

15. Approximately 14.16% of phone calls were interstate phone calls during the period when the interim rates for interstate calls were effective in 2014. Intrastate phone call minutes during the relevant period were 14,698,757, and interstate phone call minutes were 2,426,361.

16. During 2015, the interim rates for interstate calls were effective during the entire year. There were 1,448,965 inmate phone calls and 19,551,835 phone call minutes. The Oklahoma Department of Corrections received \$2,850,983.15 in revenue that year in addition to a \$250,000 signing bonus received after renewing the contract for the 2015 year.

17. During 2015, about 14.54% of phone calls were interstate phone calls. There were 16,707,248 intrastate phone call minutes and 2,844,587 interstate phone call minutes.

18. Given the number of interstate calls made during 2014 and 2015 when the interim interstate rates were in effect without attributing any change in volume to different rates, the Oklahoma Department of Corrections received an estimated \$894,233.46 less in revenue than it otherwise would have received in those years.

19. If the Order published by the Federal Communications Commission on December 18, 2015, went into effect, the rate applicable in Oklahoma prisons would be \$0.11 per minute. Flat calling plans would be prohibited. By not including the cost of commissions when setting the rate,

the Order discourages any attempt by the Oklahoma Department of Corrections to recover any form of revenue.

20. If Value-Added Communications, Inc., retained the same amount per minute that it currently does, approximately \$.05 per minute, after the Federal Communications Commission's Order goes into effect, the Oklahoma Department of Corrections could only receive at most about \$.06 per minute while complying with the Order.

21. At the low end of phone call minutes that occurred on average in 2012 and 2013, the Oklahoma Department of Corrections would receive an estimated \$1,065,894.18 in revenue per year under the Order's rates.

22. At the high end of phone call minutes that occurred in 2014, the Oklahoma Department of Corrections would receive an estimated \$1,221,834.66 in revenue per year under the Order's rates.

23. Communications between the Oklahoma Department of Corrections and its inmate calling service provider Value-Added Communications, Inc., reveal an intent by the provider to drastically reduce or eliminate payments to the Department altogether if the Order goes into effect.

24. In addition to lost revenue from interstate rate caps set in 2013, the Oklahoma Department of Corrections stands to see its revenue fall from approximately \$3,000,000 per year to anywhere from nothing to \$1,500,000 per year if the Order goes into effect. The Department thus stands to lose at least \$1,500,000 per year in revenue and as much as \$3,000,000 per year.

25. The Oklahoma Department of Corrections must use the revenue it receives from inmate calling services for the benefit of inmates as part of the Department's canteen system according to Title 57, Section 537 of the Oklahoma Statutes.

26. Benefits provided to inmates from the canteen system in Oklahoma include, among other things, substance abuse treatment, mental health treatment programs, counseling programs,

health services, legal resources including Westlaw access and copying machines, job training, inmate clothing, and recreational equipment including sporting equipment, board games, exercise equipment, and more.

27. The Oklahoma Department of Corrections would not be able to fund all of the benefits currently provided through the canteen system if revenue from inmate calling services dropped from approximately \$3,000,000 per year to nothing or to somewhere between \$1,000,000 and \$1,500,000 per year.

28. If the Order goes into effect, then, the Oklahoma Department of Corrections would be forced to change its policy goals by reducing programming provided with canteen system revenues or by diverting funds that currently achieve other policy goals in order to pay for programs currently funded by canteen system revenues.

FURTHER AFFIANT SAITH NOT.

Tina Hicks

Tina Hicks

SUBSCRIBED AND SWORN before me, the undersigned Notary Public, on this 19th day of February, 2016.

Lori Evans Wilson

Notary Public

My Commission Expires on 9/12/17

