

714 SW Jackson, Suite 300
Topeka, KS 66603



Phone: (785) 296-3317
Fax: (785) 296-0014
Email: kdocpub@doc.ks.gov
www.doc.ks.gov

Ray Roberts, Secretary

Sam Brownback, Governor

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FCC Mail Room

Commission's Secretary, Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

SUBJECT: Comments regarding WC Docket No. 12-375; FCC 14-158 Rates for Interstate Calling Services; Second Further Notice of Proposed Rulemaking

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Dear Commissioners,

The Kansas Department of Corrections (KDOC) hereby submits the following comments to the Second Further Notice of Proposed Rulemaking pertaining to the Rates for Interstate Inmate Calling Services, published in Federal Register on November 21, 2014.

KDOC does not agree that a prohibition on the payment of site commissions would foster a more competitive environment for inmate calling services (ICS). Based on our experience, KDOC believes that the current environment already encourages ICS providers and corrections agencies to offer the lowest possible rates without sacrificing commissions which are vital to providing recidivism-reducing inmate programming.

KDOC's current contract went into effect in February 2013. The new contract eliminated all surcharges and established a flat of \$0.18 per minute for all local, intrastate, and interstate calls collect and prepaid calls and \$0.17 per minute for prepaid debit. Under the current rate structure, a 15-minute collect and prepaid collect calls costs \$2.70 and a prepaid debit call costs \$2.55. Under the previous contract, consumers paid a surcharge on all local, intrastate, and interstate calls ranging from \$1.28 for interstate prepaid debit calls to \$2.61 for local collect calls. Consumers also paid a per-minute rate as high as \$0.41 per minute in addition to the surcharge, resulting in a 15-minute call costing as much as \$8.11. As such, the decrease in pricing resulted in 62.7% increase in the number of calls placed during the first year of the contract (1,179,844 calls in CY 2012 versus 1,919,518 calls in CY 2013). Based on current call volume, KDOC is estimating the total number of calls to exceed 2.3 million by the end of CY 2014. This would represent a 95% increase in call volume from CY 2012, the last full year under the previous contract.

The FCC acknowledges in the Notice that, according to a Department of Justice study, 66% of inmates released are rearrested within three years of release. The FCC further states that "[a]s a nation, we need to take all actions possible to reduce these recidivism rates." The KDOC utilizes site commissions to finance an array of programs ranging from sex offender treatment, GED and vocational education, substance abuse treatment, transitional housing, and cognitive skills development. As a result of these programs, Kansas has achieved a three-year recidivism rate of 34.8%—nearly half the rate cited by the

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Department of Justice. Losing programs funded by site commissions would result in 302 more admissions to Kansas prisons per year at a cost of over \$3.2 million annually. For a small state whose prison system is already over capacity, 302 more admissions means over 300 more victims, capacity expansion, and increased cost to taxpayers in the form of increased operational costs. KDOC has taken the lead in balancing the need to make calls more affordable for inmates and their families and providing inmates with the skills and treatment needed for successful reintegration into society. Increased call volume and any corresponding reduction in recidivism that can be attributed to such increases will not offset the increase in recidivism resulting from the lack of effective offender programming.

KDOC believes that the FCC should wait until final action is taken by the US Court of Appeals before making any interim interstate reforms permanent and imposing any additional restrictions on intrastate rates and site commissions. It would be counterproductive to renegotiate existing contracts with ICS providers and terminate existing contracts and staff funded by commission revenue based on a new order when the Circuit Court may invalidate the original order. Despite the two-year transition period proposed by the FCC, in reality when employees become aware that funding for their positions is being eliminated, they will begin looking for other opportunities before they are laid off. As vacancies occur, those positions would not be filled. Likewise, contracts would not be renewed with the knowledge that the agency would have to terminate the contract a few months later due to declining revenues.

KDOC does not agree with the concept of unitary rates for all correctional facilities. The cost to provide an ICS is largely driven by the size of a facility and length of stay. Larger facilities benefit from the economies of scale that allows agencies and ICS providers to spread the cost among a larger population. Juvenile facilities in particular are inherently inefficient in this respect due to the smaller population. And like jails, juvenile facilities have a relatively high turnover rate among residents, which requires agencies and vendors to increase the cost per minute. As of October 31, 2014, juvenile offender housed in facilities operated by KDOC experienced an average length of stay of 10.1 months. A unitary rate for all facilities would likely result in smaller facilities, such as juvenile facilities and jails, severely curtailing ICS availability or eliminating their ICS altogether. For states that operate adult prisons and juvenile correctional facilities, such as Kansas, a disproportionate share of the cost to provide ICS at the juvenile facilities would be shifted to adult prisons. KDOC does not believe it is appropriate to shift the burden to adult inmates and their friends and family nor does KDOC believe that this is the intent of the FCC.

KDOC does not agree with the concept of awarding multiple contracts to provide ICS to the same facilities. Awarding multiple contracts works well for commodities and capital outlay items such as uniforms, equipment, and vehicles as it provides agencies with the ability to procure those items based on factors such as product availability, delivery schedule, and changes in market prices. Utilizing multiple vendors for service contracts provides no benefit to the agency. Instead, additional staff would be required for to bid, negotiate, and oversee contracts, review and process vendor payments, and address disputes between vendors. If such costs could be recovered through the rates charged, as proposed by the FCC, this would undoubtedly increase rates. Due to the complexity and inefficiencies inherent with awarding multiple ICS contracts, KDOC would likely eliminate inmate calling services, with the exception being hotlines required by state and federal law.

KDOC does not believe Section 276 of the Telecommunications Act of 1996 provides the FCC the legal authority to restrict site commissions. The intent of Section 276 is to "promote competition among payphone services providers and promote the widespread deployment of payphone services to benefit

the general public." Inmate calling services are not payphones in the traditional sense; nor would further expansion of ICS provide a benefit to the general public. Inmate phone systems must have a number of features not common in traditional payphones, including but not limited to, the ability to enter authorized numbers to ensure inmates do not call victims, witnesses, judges, etc.; pre-recorded messaging functionality which announces to the call recipient who the call is from and where it is coming from; functionality which requires confirmation from the recipient that he or she accepts the call; recording and play back capabilities with safeguards to prevent the recording of attorney-client conversations; system or individual phone disconnect capabilities; report generating capabilities; access to informant lines at no costs to the inmate; lines to report Prison Rape Elimination Act of 2003 violations at no cost to the inmate and without the use of an offender-specific PIN; for juvenile offenders, the ability to call the child abuse hotline at no charge without using the offender-specific PIN; and the ability to detect and terminate three-way calls, conference calls, and forwarded calls.

I appreciate the opportunity to comment on the proposed rules. Should you or your staff have any questions please do not hesitate to contact my office at (785) 296-3317.

Sincerely,

A handwritten signature in black ink that reads "Ray Roberts". The signature is written in a cursive, flowing style.

Ray Roberts,
Secretary of Corrections

RR:kb