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WITNESS INDEX

WITNESSES	DIRECT TESTIMONY	CROSS	REDIRECT	RECROSS
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Darvey Johnson

By Judge Gesoff	4	--	--	--
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Denise Breslin

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NUMBER FOR IDENTIFICATION IN EVIDENCE

None

P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE LARRY GESOFF: We're on
3 the Record. This is the time and place set by the
4 Pennsylvania Public Utility Commission for an initial
5 hearing by telephone in the Complaint of Darvey Johnson
6 against Verizon Select Services, Inc., at Docket No.
7 C-20055328.

8 I note the appearance of Mr. Johnson on behalf of
9 himself and of William E. Lehman on behalf of Verizon Select
10 Services, Inc., also known as VSSI. Also on the telephone
11 is a prospective witness for VSSI, Denise Breslin.

12 I usually allow parties a chance to settle this
13 matter at the beginning of the hearing. Mr. Lehman, any
14 need to do that?

15 MR. LEHMAN: No, I don't believe so, Your
16 Honor.

17 JUDGE GESOFF: Okay. All right. Mr. Johnson.

18 MR. JOHNSON: Yes, sir. Yes, Your Honor.

19 DARVEY LEHMAN,

20 Having been duly sworn, testified as follows:

21 DIRECT TESTIMONY

22 BY JUDGE GESOFF:

23 Q State your name, please.

24 A Darvey Johnson, D-a-r-v-e-y J-o-h-n-s-o-n.

25 Q Okay. Thank you. Mr. Johnson, you're currently

1 incarcerated at SCI Albion?

2 A That is correct.

3 Q The CZ 6364, is that your identification number?

4 A That is correct.

5 Q Okay. All right. Now, you have filed a Complaint
6 with regard to the telephone service and being disconnected
7 and you filled out some Inmate Grievance Forms and Telephone
8 System Discrepancy Forms. The company has filed an Answer.
9 You have the burden of proving that the service that you
10 received from the company is inadequate or unreasonable in
11 some way. So, I have sworn you in and we're going to take
12 your testimony.

13 Do you want to -- do you have the specific dates you
14 want to talk about? Do you want to approach it that way?

15 A Yes, basically, Your Honor, all the actual
16 information that I have I forwarded to the PUC.

17 Q Right.

18 A Which was the grievance and the phone discrepancy and
19 at my present moment, I really don't have that available
20 because I sent them the original copies without photocopies.

21 Q Okay. All right. I have them here. They've
22 attached to your Complaint, so let me just -- I'm going to
23 jog your memory. Okay?

24 A Yes.

25 Q All right. The first Inmate Grievance Form is dated

1 August 22 and it relates to a conversation you had with your
2 wife on August the 18th of '05.

3 A That's correct.

4 Q Where you indicated you were disconnected, you called
5 back and she said she did not accidentally touch any buttons
6 and you were disconnected again and you said the phone at
7 the residence you called is not cordless and you're asking
8 for a \$12.94 reimbursement.

9 The Answer that the VSSI filed is that the Prison
10 Inmate System detected a prohibited three-way call attempt
11 which is prohibited by the Department of Corrections
12 regulations.

13 A I remember receiving that response in my Phone
14 Discrepancy Form.

15 Q Okay.

16 A I'm sorry, Your Honor, also I mentioned -- I believe
17 I had written in there that the service that the jail uses
18 is also the service that my wife uses and they can verify
19 through their records that its not a two-way line.

20 Q Okay. If I pause its because I'm taking notes

21 A I had mentioned that, I believe on several occasions,
22 that --

23 Q Yes, I think there was a -- actually, the last form,
24 that was Inmate Grievance Form dated August 23rd, 2005,
25 attachment B, you say that the No. (215) 425-1171 is not a

1 three-way line, is what you say.

2 A That is correct. And that line is also serviced by
3 Verizon.

4 Q Okay. Then there was another grievance form dated
5 August 22nd for a call on August 17th and you were
6 disconnected and you want double reimbursement for that,
7 although there's not an amount for the call and the Answer
8 to -- by VSSI was the same.

9 A That is correct.

10 Q All right.

11 A I remember receiving that response back on my
12 grievance form.

13 Q Okay. Then there was a Telephone System Discrepancy
14 Form dated August 19th of 2005 relating to -- it looks like
15 it might be the same call because its August the 18th at
16 8:20 in the morning.

17 A I think one -- I think that particular day, Your
18 Honor, I believe I called there twice or three times after
19 being disconnected, that's why it may be dated that day.

20 Q Okay.

21 A But they were actually two or three different
22 occasions, different phone calls.

23 Q Yes. You did say you were disconnected the first
24 time and you called back and were disconnected again. Okay.
25 This time you say in your discrepancy form that the

1 automated system said no touch tone dialing allowed and then
2 you also say on that phone call that you purchased a prepaid
3 phone card on August 17th at 8:20 p.m. and it was not
4 available at 8:20 p.m. the next day, the 18th of August.

5 Now, there's a Telephone System Discrepancy System
6 Form dated August 19th that refers to calls on August 17th,
7 2005, at 5:50 p.m. and two calls on August the 8th and July
8 4th of 2005 and on that form you say that the call was
9 disconnected in the middle of a conversation, the automated
10 system said no touch tone dialing is allowed. The form
11 indicates you called your wife back each time and she said
12 she had not touched any buttons and then you repeat here
13 that you had purchased a prepaid card on August 17th and on
14 August 18th it was not activated.

15 A That's correct. I remember that.

16 Q The Telephone System Discrepancy Form dated August
17 23, '05, refers to a call on August the 19th, '05, at 10:50
18 a.m. and on that form you indicate that you had \$15.89 on
19 your prepaid phone card, you spoke for about one minute and
20 you were left with a balance of \$12.62. You say this is
21 inaccurate because you should only have been charged \$2.44
22 rather than the higher amount, \$4.71, which really would
23 have been for a 15-minute call.

24 A That is correct.

25 Q And the company said that you made a two-minute

1 prepaid call on that date for which you were billed the
2 proper amount of \$2.77.

3 A That's correct.

4 Q All right. And then the last thing is what I
5 referred to before, the Inmate Grievance Form dated August
6 23, '05, Attachment B, indicating that you cannot attempt a
7 three-way call because its not a three-way line and VSSI
8 denies that.

9 Now, that's what you have in your Complaint. Is
10 there anything else you wanted to add at this point?

11 A No. No, Your Honor, but actually there were three
12 other events, obviously they're not included in this
13 particular suit here, but basically I have no problem paying
14 money for these services because I need the phone, but I do
15 have a problem with inaccurate service. You know, the only
16 thing I ask for is just give me what I paid for. These
17 complaints are not frivolous. I have no reason whatsoever
18 -- I wouldn't go the distance with the situation unless it
19 was a problem and basically all I'm asking for is the
20 services that I paid for.

21 The price is somewhat outrageous, but I still realize
22 I need these phones. I'm a married man, I have a family,
23 issues going on out there that aren't too pleasant and would
24 like to be able to speak to my family so I would be aware of
25 what's going on and its somewhat frustrating to pay all of

1 this money and not to mention for the services to be so
2 faulty.

3 JUDGE GESOFF: Okay. All right. I understand
4 your Complaint. Mr. Lehman, do you have any questions on
5 Cross-Examination?

6 MR. LEHMAN: Just a couple questions, Your
7 Honor.

8 CROSS-EXAMINATION

9 BY MR. LEHMAN:

10 Q Mr. Johnson, you do state in your Complaint at some
11 point that you're not calling a cell phone or the phone
12 you're calling is not cordless. How do you know that?

13 A Its my wife's phone. I resided at that address.

14 Q You reside at that -- I thought you reside at Albion?

15 A I'm sorry, before my incarceration I lived at the
16 address.

17 Q How long have you been incarcerated?

18 A I'm sorry.

19 Q I'm sorry. How long have you been incarcerated?

20 A I have been incarcerated since April and specifically
21 my wife knows the routine. She knows don't press any
22 buttons and we do not have a cordless at the house.

23 Q Okay.

24 A I have asked her that on several occasions. To get
25 to the phone system here, you can get that information

1 yourself.

2 Q I'm sorry, what was that?

3 A If you were to monitor my phone conversations, I have
4 asked her on several occasions about the phone situation and
5 its not a cordless phone.

6 Q Well, you can't monitor whether something is a
7 cordless phone or not, but --

8 A But you can monitor me asking her is the phone
9 cordless.

10 Q Oh. That was your wife's statement, that the phone
11 is not cordless?

12 A The phone is not cordless.

13 MR. LEHMAN: Your Honor, I would like to
14 object to that. That's hearsay. That's testimony of his
15 wife and she is not available for Cross-Examination, so the
16 fact that its a cordless phone -- his testimony its not a
17 cordless phone, his testimony is hearsay regarding that
18 issue.

19 JUDGE GESOFF: I understand.

20 BY MR. LEHMAN:

21 Q Now, at certain points during your -- in your
22 Discrepancy Forms you have certain amounts listed that you
23 believe you're due or you should be owed regarding some of
24 these calls. At the very -- in your Complaint under what
25 relief are you seeking, you state that you want to be

1 reimbursed \$75.00. How did you come up with that \$75.00?

2 A Because actually I had four -- I had four other
3 complaints on the way, as I mentioned obviously at the
4 beginning of the phone conversation, which they're not
5 included with this particular case right here, and basically
6 the rest was something I just added for punitive damages.
7 The phone calls --

8 Q Excuse me?

9 A I used the telephone not for business purposes, but
10 to make sure things were going on -- make sure that things
11 were okay with my family. I have been through -- since I
12 was arrested April the 9th, right before I was arrested my
13 wife lost her identical twin sister on March 11 and March 3
14 she miscarried with our child, so basically still a lot of
15 things going on and I really need to speak with her.

16 Q Well, okay. But getting back to the question, is the
17 \$75.00 -- I'm sorry for your loss -- but is the \$75.00, is
18 that punitive damages; is that what I have gotten from you?

19 A Basically, and the remainder would be what's actually
20 owed to me.

21 Q Okay. So what would be the remainder; what are you
22 including in the remainder?

23 A Unfortunately I really have no documents in front of
24 me. When I came into the unit, they informed me that the
25 Court was going to call me and I immediately grabbed what I

1 could, but none of it has the actual amounts, figures that I
2 calculated.

3 Q Okay. What, in your mind -- or could you tell us
4 what you believe those would include? I'm not -- at this
5 point I guess I'm not looking for a specific amount dollar
6 wise, but what do you believe you should be reimbursed for
7 as a result of these calls that you have indicated here on
8 the 17th and 18th; are you asking for the total amount of
9 those calls that you paid?

10 A I'm asking for the total amount and plus.

11 Q Okay. You did talk on those calls, though; correct?

12 A I did talk on those calls.

13 Q You communicated with your wife or whoever you were
14 talking with for whatever it was, 12 minutes or 13 minutes
15 during that time; right?

16 A I did speak for that length -- amount of time, the
17 actual amount of time, I'm not sure, but I know that once my
18 phone was disconnected the surplus charges is the one that's
19 expensive of the initial call.

20 Q That's what I'm trying to get at. Should Gesoff
21 determine that you have met your burden of proof here, you
22 wouldn't be requesting on just the reconnection fees;
23 correct?

24 A The reconnection fees plus.

25 Q Plus punitive damages?

1 A That is correct.

2 Q All right.

3 MR. LEHMAN: Your Honor, once again at this
4 time I would like to inform the Court -- which I'm sure
5 you're aware -- that the Commission cannot award punitive
6 damages in this instance.

7 JUDGE GESOFF: Yes, that's correct. That
8 would be for the Common Pleas Courts.

9 MR. LEHMAN: Okay. Thank you. Do you
10 understand that, Mr. Johnson?

11 THE WITNESS: Yes, I do. Now I do, sir.

12 JUDGE GESOFF: The Pennsylvania Public Utility
13 Commission cannot award damages. However, it just doesn't
14 have the authority to do that. The only thing it could do
15 is if it finds that the service that VSSI rendered was
16 unreasonable, it could penalize them. That money gets paid
17 into the general fund of the Commonwealth. But as far as
18 punitive damages, no, that can't happen here.

19 THE WITNESS: Okay. I'm well aware. I'm well
20 aware now, Your Honor.

21 JUDGE GESOFF: Okay.

22 MR. LEHMAN: Your Honor, I have nothing
23 further at this time.

24 JUDGE GESOFF: Okay. All right, Mr. Johnson,
25 we'll now I think hear from the company's witness. Mr.

1 Lehman.

2 MR. LEHMAN: Yes, Your Honor. Denise Breslin,
3 please.

4 MS. BRESLIN: Yes.

5 DENISE BRESLIN,
6 having been duly cautioned and sworn, testified as follows:

7 JUDGE GESOFF: State your name and spell it,
8 please.

9 THE WITNESS: Denise Breslin. That is
10 B-r-e-s-l-i-n.

11 JUDGE GESOFF: Okay. And where are you
12 located?

13 THE WITNESS: I'm located in Altoona,
14 Pennsylvania.

15 JUDGE GESOFF: Okay. And, Mr. Lehman, you're
16 located in Harrisburg; correct?

17 MR. LEHMAN: Yes.

18 JUDGE GESOFF: Okay. Go ahead, Mr. Lehman.

19 DIRECT EXAMINATION

20 BY MR. LEHMAN:

21 Q Ms. Breslin, by whom are you employed and in what
22 capacity?

23 A I work for Verizon Pennsylvania, Incorporated, and
24 I'm the Corrections Product Line Manager.

25 Q Could you please briefly describe the nature and

1 scope of your job responsibility.

2 A Yes. As the Manager of the Corrections Product Line
3 Management Team, my team is responsible for not only product
4 management but vendor relations, marketing, our financial
5 results and planning as well as RFPs.

6 JUDGE GESOFF: What was that, the last thing
7 you said?

8 THE WITNESS: Request for Proposal Responses.

9 JUDGE GESOFF: Okay. RFPs?

10 THE WITNESS: Yes.

11 JUDGE GESOFF: All right.

12 BY MR. LEHMAN:

13 Q Are you authorized to testify on behalf of Verizon in
14 this proceeding?

15 A Yes, I am.

16 Q Have you reviewed the Complaint filed in this matter?

17 A Yes.

18 Q Were you present during the testimony of the
19 Complainant today?

20 A Yes.

21 Q Could you please briefly describe the arrangement for
22 the provision of inmate telephone service to the Department
23 of Corrections by Verizon Pennsylvania.

24 A Sure. Verizon Pennsylvania does provide the inmate
25 telephone services, which include local and intralata

1 telephone services in the Pennsylvania Department of
2 Corrections, which is subject to the rules and regulations
3 of the Department of Corrections and the laws of
4 Pennsylvania.

5 Our affiliate, Verizon's affiliate, Verizon Select
6 Services, Inc., otherwise known as VSSI, provides the
7 interlata telephone service at -- all traffic at the DOC
8 facilities, also as well as the facilities that are not
9 within the Verizon Pennsylvania, Incorporated, territory.

10 We also have another subcontractor, which is Securus,
11 formerly known as T-Neti, which provides the inmate call
12 control system and the software that runs it. We also
13 subcontract to a company by the name of Shawntech for the on
14 site --

15 JUDGE GESOFF: Sorry folks, hold on a second.
16 I did something to the telephone and cut you out. You were
17 talking about -- the first affiliate was VSSI.

18 THE WITNESS: Yes.

19 JUDGE GESOFF: Then you talked about a second
20 one and why don't you start there. I beg your pardon. And
21 spell the names of these affiliates, please.

22 THE WITNESS: Oh, sure. In addition to VSSI,
23 we have another subcontractor named Securus, S-e-c-u-r-u-s.
24 They are formerly known as T-Neti, which would be spelled
25 T-N-e-t-i. They provide the inmate call control system and

1 the software that runs it.

2 The last subcontractor that we have out at the
3 Department of Corrections is Shawntech, that's spelled
4 S-h-a-w-n-t-e-c-h. They provide the on site site
5 administrators.

6 BY MR. LEHMAN:

7 Q Could you please describe the general operations of
8 the inmate call system and some of the requirements that are
9 placed on Verizon by the DOC.

10 A Sure. The inmates that are incarcerated at the State
11 Correctional Facilities in Pennsylvania are given a
12 privilege to make phone calls which are subject to certain
13 restrictions placed on them by state law and Department of
14 Corrections requirements. Generally speaking, depending on
15 their security status, they are allowed to make up to 15
16 minutes of calls a day. They use the phones at the facility
17 and are only allowed to either make those phone calls
18 collect or prepaid.

19 For prepaid calling the inmates themselves deposit
20 money into the account through a commissary transaction at
21 the facility and it is put into their telephone account.

22 The inmates must register telephone numbers that they
23 want to call with the Department of Corrections, who then
24 approves them. Once the DOC approves them, they can then
25 call only those numbers that are on that approved list.

1 All calls have an announcement which is played that
2 the call -- to the called party that the call is coming from
3 a correctional facility and its subject to monitoring and
4 recording. If that call is accepted by the called party, a
5 smaller message is then replayed every few minutes during
6 the conversation. Those are state law and DOC contract
7 required messages.

8 The Department of Corrections has determined
9 basically for safety reasons that if any time during a call
10 that the call control system detects a tone or noise it
11 believes that is a three-way call attempt, the call is to be
12 terminated.

13 Q Let's follow-up on that. Does the contract with the
14 DOC require that the system detect and terminate calls for
15 three-way call attempts?

16 A Yes, it does. The Department of Corrections
17 requires, for security purposes, that the inmate call
18 control system be able to prevent three-way call attempts.
19 This requirement is to prevent the inmates from contacting
20 people that they are not approved to call. For example, its
21 to prevent witness and victim intimidation, criminal
22 activity and threats to lawyers and judges.

23 Q Now, would the three-way call attempt be initiated by
24 the called party or the inmate?

25 A The called party would be the one initiating the

1 three-way call attempt.

2 Q Is the three-way calling a feature offered by
3 Verizon, Pa.?

4 A Yes, it is either offered by either subscribing to it
5 monthly or the called party themselves may initiate a
6 three-way call attempt on an individual basis.

7 Q So whether one subscribes to the monthly service or
8 attempts a three-way call on an individual use basis, do
9 they initiate the attempt the same way?

10 A Yes, they would. They would first press and release
11 the switch hook or possibly if they're using more of a
12 modern phone, a touch tone phone, they would use the key pad
13 such as the pound button to put the first caller on hold and
14 then they would dial the third party.

15 Q So even if the called party does not subscribe to the
16 three-way call feature on a monthly basis, they could still
17 initiate a three-way call attempt while they are talking to
18 an inmate?

19 A Yes, that is correct.

20 Q Have you reviewed the call records for Mr. Darvey
21 Johnson?

22 A Yes, I have reviewed his calling records from January
23 6 of 2004 until the present.

24 Q Now, Mr. Johnson makes allegations in his Complaint
25 about specific calls he made from prison. Have you reviewed

1 his Complaint?

2 A Yes, I have.

3 Q Now, Mr. Johnson, in referring to the attached
4 grievance forms in his Complaint, Mr. Johnson alleges in his
5 attachments that he made calls on July 4th, August 8th,
6 August 17th, and August 18th, 2005, that were terminated
7 through no fault of his own.

8 Could you please address these calls one at a time.

9 A Certainly. I'll be glad to. I'll begin with July
10 4th, 2005. Mr. Johnson made a collect call at 8:06 p.m.
11 This call lasted for 14 minutes and it was terminated when
12 he hung up. He was calling a friend.

13 On August the 8th, 2005, Mr. Johnson made two calls
14 on August the 8th. The first call was a collect call. This
15 call began at 3:37 p.m. and lasted for two minutes. He also
16 made another collect call at 7:53 p.m. which lasted 13
17 minutes. Both of these calls on August the 8th were
18 terminated when the inmate hung up. Both calls were
19 collect. Mr. Johnson did not pay for those calls. There is
20 no indication that the call -- those two calls were
21 terminated for any other reason other than that he hung up.

22 On August 17th, 2005, he made a collect call that
23 began at 5:36 p.m. and lasted for two minutes. This call
24 was terminated because of the prohibited three-way call
25 attempt. He then called back collect at 5:39 p.m. and spoke

1 for 13 minutes. This call was terminated by himself. He
2 hung up. Once again, both calls on August 17th were made
3 collect, so Mr. Johnson did not pay for those two calls.

4 On August 18th, 2005, he made a collect call at 8:05
5 p.m. He spoke for 13 minutes and the call was terminated
6 because of a prohibited three-way call attempt.

7 He then called back collect at 8:20 p.m. and spoke
8 for one minute. The call again was terminated for a
9 prohibited three-way call attempt. Both calls were made
10 collect. Mr. Johnson was not charged for the calls.

11 Q Was the same number dialed for each of these calls?

12 A Yes. The number that was called is 215-425-1171. He
13 stated that these calls are to his wife. However, that
14 phone number is listed on his approved calling list of the
15 DOC as a friend.

16 Q Could the number he dialed have attempted a three-way
17 call?

18 A Yes. As I explained earlier, three-way calling can
19 be initiated on a per use basis.

20 Q Let me ask you just quickly, Judge Gesoff mentioned
21 earlier when he was reading back the grievance forms that at
22 one point I believe he said he got a message no touch tone
23 dialing allowed.

24 Do you have any idea what that is or what that
25 message would be?

1 A No touch tone dialing? Well, the inmate call control
2 system, there are possible reasons for a phone call to be
3 disconnected and these are listed at the facility. So the
4 inmates are aware that, you know, if they attempt to make a
5 three-way call, the call will disconnect, as well as the
6 called party that has a call waiting signal, if someone at
7 the residence picks up an extension or buttons are pressed,
8 either by the called party or inmate, that will eliminate a
9 call because it is the procedures that -- the way the system
10 is built.

11 There's no reason during a call that additional
12 buttons be pushed and the system is designed according to
13 DOC specifics to work in this site in this fashion.

14 Q All right. Thank you.

15 A Yes.

16 Q Is there any indication that these calls were
17 terminated for any unknown reason?

18 A No. The system indicated that they were terminated
19 for either the inmate hung up or a three-way call attempt
20 was attempted.

21 Q Now, in your opinion, what is the reliability of
22 three-way call detection system?

23 A In my opinion, its for security and public safety.
24 They are the main reasons in the performance of inmate call
25 control system. No system is perfect, however, you know,

1 the evidence by long withstanding and widespread use of the
2 security system nationally, not only by Verizon but our
3 competitors as well, both personal, local, state and federal
4 levels in this system and the lack of complaints by other
5 prison authorities, victims, witnesses, judges and lawyers
6 nationally, as well as within Pennsylvania, we have lack of
7 similar complaints by inmates or called party.

8 So the balance is critical between the requirements
9 of the system, detect these call attempts, you know, and
10 prevent three-way calls. I feel that it does work quite
11 well and indicates to me that the system works as it should.

12 Q Now, moving on from the three-way call attempt, he
13 also makes a couple more allegations in his grievance forms.

14 He alleges that there was a discrepancy in his
15 prepaid account on August 19, 2005. Can you please respond
16 to this.

17 A Sure. Mr. Johnson did make a prepaid calling call on
18 August 19, 2005. The call -- he spoke for two minutes, for
19 which he was billed \$2.77. He made another prepaid call on
20 August 20th, 2005, which he spoke for ten minutes and which
21 he was billed \$4.58. Those charges are correct. They were
22 correctly billed to the tariffs and I see no discrepancy in
23 the amounts in his prepaid account.

24 Q Mr. Johnson also alleges that he purchased a prepaid
25 card on August 17th of 2005 and the amount was not available

1 to him until -- was not available to him on August 18th,
2 '05. What is your response to this?

3 A Mr. Johnson did make a \$15.00 deposit into his
4 prepaid account. That deposit was made on August 17th,
5 2005, at 9:33 a.m. That was when the commissary transaction
6 took place.

7 It was available for his use in his phone account on
8 August 19th at 8:20 a.m. It was explained to Mr. Johnson
9 that it does take 24 to 48 hours, business hours, before a
10 prepaid fund is available to use.

11 Q Mr. Johnson also alleges that the number that he
12 calls, 215-425-1171, cannot make a three-way call attempt.
13 What is your response to that?

14 A As I said earlier, three-way calling is a feature
15 that is offered both on a monthly basis by Verizon or on a
16 per use basis.

17 So, the customer, you know, who has that number could
18 use a three-way call feature on an individual basis even if
19 they, themselves, don't subscribe to it monthly.

20 Q Thank you. Just following up on one question
21 regarding the calls on the 18th and 17th, as you described
22 earlier and also I believe it was the 4th and August 8th,
23 out of all of those calls, there was a total of, I believe
24 it was what, three calls that were terminated?

25 A For a three-way call attempt?

1 Q For a three-way call attempt.

2 A That is correct.

3 Q And all of these calls, however, were collect calls
4 made by Mr. Johnson; right, so there would be no refund due
5 to him?

6 A That's correct.

7 MR. LEHMAN: Your Honor, I have nothing
8 further at this time.

9 JUDGE GESOFF: Okay. Mr. Johnson, do you have
10 any questions for Ms. Breslin?

11 MR. JOHNSON: Yes, Your Honor.

12 JUDGE GESOFF: Okay.

13 CROSS-EXAMINATION

14 BY MR. JOHNSON:

15 Q First, I would like to bring to your attention --
16 what is your name again?

17 A My name is Denise Breslin.

18 Q Its Denise. Dealing with the telephone system, it
19 would pretty much be irrelevant to make partial calls on a
20 15 minute call because the first initial charge is the one
21 that is costly and secondly --

22 JUDGE GESOFF: Hold on a second. Now, you're
23 making a statement. Let's see if we can turn that into a
24 question --

25 MR. JOHNSON: I'm sorry.

1 JUDGE GESOFF: -- for Ms. Breslin. You're
2 saying that the initial, what, minute or two minutes of a 15
3 minute call is the most expensive?

4 MR. JOHNSON: Yes. The first minute, which is
5 the surplus charge.

6 JUDGE GESOFF: Okay.

7 MR. JOHNSON: Its \$2.47 and every additional
8 minute after that is 22 cents or 24 cents.

9 JUDGE GESOFF: Is that correct, Ms. Breslin?

10 THE WITNESS: It would be based upon the
11 tariff. I would have to check local, inter or intralata
12 call that we're speaking of, but generally as the tariff is
13 constructed, there is a surcharge. It is -- there is a
14 surcharge to begin with, you have the first minute and then
15 each additional minute after that that you speak.

16 So, if you're saying that for the first minute its
17 the most expensive part of the call, that is correct. The
18 surcharge is charged for the first minute.

19 BY MR. JOHNSON:

20 Q And so basically what I'm trying to bring to your
21 attention is that it pretty much would be irrelevant for me
22 to make a partial call, to make another call, its just too
23 expensive, its way too expensive, and the communications I
24 have with my spouse simply play no games, the telephone --

25 MR. LEHMAN: Your Honor, once again this is

1 testimony, I believe, and its time now for questions. If
2 Mr. Johnson would have a question, I would request that he
3 would ask it.

4 JUDGE GESOFF: Okay. Mr. Johnson, save what
5 you're saying now for the end. I think that's argument.
6 You're argument would be that because the first minute of a
7 call is so expensive, you would not have any incentive to
8 make a call for two minutes, hang up and call back again. I
9 think that's what you're saying.

10 MR. JOHNSON: I understand that.

11 JUDGE GESOFF: All right.

12 BY MR. JOHNSON:

13 Q This is my question to you, Ms. Denise, you're
14 telling me that you're positive area code 215-425-1171 is a
15 three-way line?

16 A You would have to be more specific to like dates, but
17 according to your Complaint, sir, I pulled all the records
18 and on your grievance forms and your discrepancy forms,
19 according to these dates, as I previously said, there were
20 three calls in your Complaint that terminated due to a
21 three-way call attempt.

22 Q Area code 215-425-1171; is that correct?

23 A Let me validate that. 215-425-1171, yes, that is
24 your telephone number.

25 Q That is correct. That's the number I'm referring to.

1 A That's correct.

2 Q Ms. Denise, that number is not a three-way line.

3 MR. JOHNSON: Your Honor, I could have -- I
4 could have phone bills sent to the Court, PUC, to verify
5 this information.

6 JUDGE GESOFF: When you say its not a
7 three-way line, do you mean that the subscriber to that
8 telephone service does not have three-way calling as part of
9 the package?

10 MR. JOHNSON: Exactly. That caller -- if I
11 was to use that telephone and speaking hypothetically and
12 asked other opposite party to make a third party call
13 attempt for me, there's no way possible, not mentioning
14 within an institution if you make a three-way call that's an
15 automatic misconduct.

16 THE WITNESS: Mr. Johnson, a three-way call
17 attempt can be attempted on a per call basis. It does not
18 have to be subscribed to.

19 MR. JOHNSON: But, Ms. Denise, I'm just pretty
20 much informing you -- I'm just stating for the Record that
21 that was my situation, no three-way calls were attempted and
22 I have no further questions, Your Honor.

23 JUDGE GESOFF: Okay. Anything on Redirect,
24 Mr. Lehman?

25 MR. LEHMAN: Yes. Let's just clarify that

1 last point, if I could, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. LEHMAN:

4 Q Ms. Breslin, I believe Mr. Johnson was trying to say
5 that the subscriber to the number that was called does not
6 have a three-way feature, she doesn't pay for it on a
7 monthly service, monthly basis. However, you did testify,
8 correct, that a three-way call attempt can be initiated on a
9 per use basis and is charged as such on any line, on any
10 Verizon line; is that correct?

11 A That is correct.

12 MR. LEHMAN: Thank you, Your Honor. No
13 further questions.

14 JUDGE GESOFF: Okay. Do you have anything you
15 wanted to say in conclusion, Mr. Johnson?

16 MR. JOHNSON: Yes, Your Honor. Basically I
17 would just like to say that there was no way possible that a
18 three-way attempt was made, not that it can, but I did not
19 request for a three-way call to be attempted, nor did the
20 opposite party attempt to make a third party call. That's
21 all I have to say.

22 JUDGE GESOFF: Okay. And, Mr. Lehman,
23 anything in conclusion?

24 MR. LEHMAN: Yes, Your Honor, I would just
25 like to point out the fact that these calls that were at

1 issue here were all collect calls by Mr. Johnson, therefore,
2 no refund is due do him certainly in any of these matters,
3 regarding any of these calls.

4 JUDGE GESOFF: Okay. Mr. Johnson, what
5 happens now is that sometimes I can write a decision from
6 the notes I take during the hearing, but I was not exposed
7 to the system in the correctional institute before, so I'm
8 going to have to wait for the transcript to come back.
9 The transcript reaches me in about 15 or 20 business days.
10 I have about 90 days to write a decision. It will not take
11 me that long.

12 You do get mail at the prison; is that right?

13 MR. JOHNSON: Yes, sir. You can keep me
14 up-to-date on the situation.

15 JUDGE GESOFF: Okay. So it would be -- would
16 it be sent to care of William Barr SCI Albion or --

17 MR. JOHNSON: Actually, things do come in
18 directly do me, with the exception of Mr. Barr receiving a
19 copy.

20 JUDGE GESOFF: Okay. All right. I think I
21 have. It would go to you CZ 6364, 10745, Route 18, Albion,
22 Pa.?

23 MR. JOHNSON: That is correct.

24 JUDGE GESOFF: I just wanted to make sure I
25 have the right address. So eventually you and the company

1 will receive a copy of my decision. Its called an initial
2 decision. There will be a cover letter attached to it which
3 indicates that if either you or the company does not agree
4 with the result, you can file written exceptions directly
5 with the Commission within 20 days usually from the date on
6 that cover letter. Then the Commission, whether or not
7 exceptions are filed, the Commission will enter a final
8 order which either affirms my order or basically adopt it or
9 change it in some way and then you'll get a copy of the
10 final Commission decision.

11 Now, before we go, I do have a question, a couple of
12 things popped into my mind. You had indicated that you were
13 incarcerated in April. Was that of '04?

14 MR. JOHNSON: That was '05, sir.

15 JUDGE GESOFF: Ms. Breslin made -- let's see,
16 I'm trying to look in my notes.

17 MS. BRESLIN: I can help you, Your Honor.

18 JUDGE GESOFF: Yes.

19 MS. BRESLIN: I stated that I reviewed his
20 records beginning January of 2004 to the present. Mr.
21 Johnson was incarcerated at the State Correctional
22 Institution at Albion beginning August 23, 2001, through
23 August 24, 2004. At that time he was paroled. He was then
24 reincarcerated at SCI Graterford beginning on May 27, 2005,
25 through July 6, 2005.

1 JUDGE GESOFF: You're going too fast.

2 MS. BRESLIN: I'm sorry, please forgive me.

3 JUDGE GESOFF: August 24 to?

4 MS. BRESLIN: SCI Albion. He was paroled and
5 then he was reincarcerated at Graterford, 5/27/05.

6 JUDGE GESOFF: Okay.

7 MS. BRESLIN: To 7/6/05 and then moved to
8 Albion on July 7th '05, where he currently resides.

9 JUDGE GESOFF: Okay. All right. Let's see.
10 Mr. Lehman, you said the correct Respondent is VSSI; is that
11 correct?

12 MR. LEHMAN: In this matter, yes.

13 JUDGE GESOFF: All right. Now, they're
14 providing -- Ms. Breslin, they provide the interlata?

15 MS. BRESLIN: Correct. Verizon Pennsylvania,
16 Incorporated, is the actual contract holder of this work.
17 VSSI is a subcontractor of ours that provides the long
18 distance, the interlata traffic.

19 JUDGE GESOFF: Okay.

20 MS. BRESLIN: As well as the area, the pockets
21 that are not within the Verizon territory.

22 JUDGE GESOFF: Then Securus --

23 THE WITNESS: Securus is our subcontractor.
24 They're the designers and makers of the inmate call control
25 system that's out at each of the facilities. Each

1 Department of Correction facility throughout the state has
2 an entire system where all the phones are connected to.

3 JUDGE GESOFF: Okay. Then Shawntech.

4 MS. BRESLIN: Shawntech is another
5 subcontractor of ours. At each facility under our contract
6 with the DOC, Your Honor, we're required to have a full-time
7 employee physically at each facility and they're called Site
8 Administrator, they help the DOC run the phones and enter
9 the inmates telephone numbers and help build the allowed
10 call list, block, things like that, and they're located out
11 at the facilities.

12 JUDGE GESOFF: Okay. Approximately how many
13 inmates does Albion have?

14 MS. BRESLIN: I would not know that
15 information, sir.

16 JUDGE GESOFF: Do you know that, Mr. Johnson?

17 MR. JOHNSON: Yes. Hold on one second, Your
18 Honor. 2,200, around that figure.

19 JUDGE GESOFF: Okay. That gives me a better
20 picture of why all of this is necessary. Okay.

21 So, Mr. Johnson, do you have any questions about the
22 procedure I just told you about, you know, my timing for my
23 decision and the exceptions to be sent to the Commission and
24 the Commission's final order?

25 MR. JOHNSON: No, sir.

1 JUDGE GESOFF: Okay. All right. Then there's
2 -- let's see, there were no Exhibits to put in the Record,
3 so I think we're finished. Good luck to you, sir.

4 MR. JOHNSON: Thank you. Your Honor, I have
5 no questions, but can I make a comment?

6 JUDGE GESOFF: Yes.

7 MR. JOHNSON: I would just like to say
8 basically -- I mean, once again, I have no problem paying
9 for the services, if the services are accurate, but, Your
10 Honor, not that I have a cordless phone, but what if I did
11 have a cordless phone? Should that make a difference in my
12 services for the money that I'm paying for -- to make these
13 phone calls?

14 And also, Your Honor, as much as possible, as we
15 speak, I should be receiving today in the mail, but I had
16 opposite party mail me copies of the phone bill. I don't
17 know if that would be good for Exhibits or not, that I could
18 forward to you through the mail.

19 JUDGE GESOFF: Well, Ms. Breslin, would his
20 copy of the phone bill shed any light on any of these
21 issues?

22 MS. BRESLIN: Well, sir, we have had -- we
23 would have to see them. We would have to validate to make
24 sure that the phone bill is the party that he called and it
25 would and should itemize any charges.

1 JUDGE GESOFF: Do you have them in your
2 possession now, Mr. Johnson?

3 MR. JOHNSON: I should be receiving them -- I
4 should receive them today or tomorrow tops, Your Honor.
5 They were placed in the mail on Saturday. So I should
6 receive it any day now. The actual copies -- I could send
7 you the originals or a photocopy, however you choose.

8 JUDGE GESOFF: Well, if you could send me a
9 legible photocopy and send mr. Lehman the same.

10 MR. JOHNSON: Okay.

11 JUDGE GESOFF: Do you have his address?

12 MR. JOHNSON: Yes, I do. I received it, two
13 days ago I received it. It was a withdrawal from the
14 original attorneys and two new attorneys, so I do have that
15 information.

16 JUDGE GESOFF: So you should send it to Mr.
17 Lehman. Do you think Mr. Kazee should have it or it is
18 sufficient to send it do you?

19 MR. LEHMAN: No, its sufficient to send it to
20 me, Your Honor. I would like to make a comment, if I may.

21 JUDGE GESOFF: Yes. Yes. Go ahead.

22 MR. LEHMAN: Obviously this might raise due
23 process concerns. You know, I don't know whose bills these
24 are and certainly that person -- I would request that I be
25 allowed to respond, I guess, to these.

1 JUDGE GESOFF: Yes. I wasn't finished. I was
2 going to include that.

3 MR. LEHMAN: Okay. Thank you.

4 JUDGE GESOFF: All right. Mr. Johnson, when
5 you receive these, let's say you receive it tomorrow, okay,
6 just for purposes of conversation --

7 MR. JOHNSON: Yes.

8 JUDGE GESOFF: -- tomorrow is the 9th, how
9 long does it take you to get a photocopy and then actually
10 mail them out?

11 MR. JOHNSON: I can do that in one day.

12 JUDGE GESOFF: You can do it the same day?

13 MR. JOHNSON: Yes.

14 JUDGE GESOFF: All right. So let's say you
15 mail them out on -- I'll give you until Monday, Monday is
16 the 12th. All right. I'm going to receive these by the
17 16th. If they're not in my office by the 16th, I will close
18 the Record and I will issue an order doing so. If they are
19 in my office by the 16th, then the company has -- how much
20 time do you want to respond, Mr. Lehman?

21 MR. LEHMAN: One week is sufficient.

22 JUDGE GESOFF: All right. Then I would have
23 the response by the 23rd and I will either admit them into
24 the Record or not and close the Record either on the 16th or
25 the 23rd. Okay?

1 MR. JOHNSON: Yes, sir. Thank you.

2 JUDGE GESOFF: All right. I'll issue an order
3 saying what I just said. It probably won't reach you by the
4 time you mail these, if you get them on time, but that's
5 okay.

6 Okay. Anything before we conclude?

7 MR. JOHNSON: No, sir.

8 JUDGE GESOFF: These are telephone records --
9 I'm sorry, your telephone bills for the bills -- I'm sorry.
10 Let me say that again.

11 These are your telephone bills or the telephone --
12 whose telephone bills would they be?

13 MR. JOHNSON: These are telephone bills from
14 215-425-1171.

15 JUDGE GESOFF: Whose name is --

16 MR. JOHNSON: Loretta.

17 JUDGE GESOFF: L-o-r-e-t-t-a.

18 MR. JOHNSON: That's correct. Sturdivant,
19 S-t-u-r-d-i-v-a-n-t.

20 JUDGE GESOFF: Okay. So they will be bills of
21 Loretta Sturdivant related to the calls in question;
22 correct?

23 MR. JOHNSON: That is correct.

24 JUDGE GESOFF: Just so we know what you're
25 going to be sending in. And your argument is what, based

1 upon those bills?

2 MR. JOHNSON: The disconnections for no
3 apparent reason.

4 JUDGE GESOFF: They're going to show --
5 they're going to sort of support your argument that there
6 was a disconnection for no apparent reason?

7 MR. JOHNSON: No, Your Honor. What they're
8 going to show is that there was not a three-way attempt and
9 they're going to show that even the phone call was not
10 completed, she was charged for the full call as if it was a
11 15 minute call.

12 JUDGE GESOFF: Okay.

13 MR. JOHNSON: Your Honor, also, there is an
14 error, a few of those calls were disconnected while using a
15 prepaid phone card, which is what I purchased from the
16 commissary here at Albion.

17 JUDGE GESOFF: All right. Mr. Lehman, you can
18 respond in writing along with your, you know, whatever
19 response you have to the documents. But Mr. Lehman also
20 must receive them by 16th, okay.

21 MR. JOHNSON: That is correct, sir.

22 JUDGE GESOFF: All right. Anything further?

23 MR. JOHNSON: No, sir.

24 JUDGE GESOFF: Mr. Lehman, anything?

25 MR. LEHMAN: Nothing, Your Honor.

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JUDGE GESOFF: All right. Then we're concluded. Thank you very much.

(Thereupon, at 11:10 o'clock a.m., the Hearing was adjourned).

C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

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