

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE: RELIANCE TELEPHONE OF GRAND FORKS, INC.	DOCKET NO. TF-2019-0026
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COMMENTS

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, files the following comments in response to the proposed revised tariff filed by Reliance Telephone of Grand Forks, Inc. (Reliance) on September 9, 2020.

1. At Original Sheet 1, “confinement” facilities should be changed to “correctional” facilities to conform with other references in the proposed tariff. *See Equal Access Corp. v. Utilities Board*, 510 N.W.2d 147, 148 (Iowa 1993).

2. At Original Sheet 7, section 2.1.4, the references to “interLATA” and “intraLATA” services can perhaps be deleted as superfluous. The terms are not referred to anywhere else in the proposed tariff.

3. At Original Sheet 8, section 2.8 of the proposed tariff provides that all federal, state and local taxes (i.e., gross receipts tax, sales tax municipal utilities tax, etc.) are listed as separate line items in the billing statement and are not included in the quoted items. FCC rules for interstate calls place restrictions on such billings. 47 C.F.R. §§ 64.6070, 64.2000(n), and

64.2000(b).¹ OCA suggests an additional provision in the tariff making clear that these restrictions will be observed for intrastate as well as interstate inmate calling: “The billing of taxes on intrastate calls will be in accordance with the same restrictions as are required by FCC rules for interstate calls.”

4. For reasons stated in its comments filed March 11, 2020, OCA objects to per minute rates for intrastate calls in excess of the maximum rates allowed under FCC rules for interstate calls. In the Order Requiring Filing Revisions to Revised Tariff (“Order”), filed August 10, 2020, the Board stated: “Reliance will be allowed to continue to charge the rates in Plan A and Plan B in the tariff until December 31, 2020. Beginning January 1, 2021, those rates will then no longer be allowed and Reliance will be required to charge the rates proposed for Plan C, or \$.25 per minute.” The Order required that the following statement appear in the tariff: “The rates in Plan A and Plan B shall expire on December 31, 2020.” At Original Sheet 14, the required statement appears in section 4.2 but not section 4.1 of the proposed tariff. Section 4.1 includes a rate of \$.40 per minute for Plan A but does not include a rate for Plan B. The following statement should be added to section 4.1: “The rate in Plan A shall expire on December 31, 2020.” Because the proposed rates do not vary for “Day,” “Evening,” and “Night/Weekend,” the references to “Day,” “Evening,” and “Night/Weekend” can perhaps be deleted as superfluous.

¹ As amended on August 6, 2020, 47 C.F.R. § 64.6070 states: “No Provider shall charge any taxes or fees to users of Inmate Calling Services for, or in connection with, interstate or international calls, other than those permitted under § 64.6020, and those defined as Mandatory Taxes, Mandatory Fees, or Authorized Fees.” 47 C.F.R. § 64.2000(n) states: “Mandatory Tax or Mandatory Fee means a fee that a Provider is required to collect directly from consumers, and remit to federal, state, or local governments. A Mandatory Tax or Mandatory Fee that is passed through to a Consumer may not include a markup, unless the markup is specifically authorized by a federal, state, or local statute, rule, or regulation.” 47 C.F.R. § 64.2000(b) states: “Authorized Fee means a government authorized, but discretionary, fee which a Provider must remit to a federal, state, or local government, and which a Provider is permitted, but not required, to pass through to Consumers. An Authorized Fee may not include a markup, unless the markup is specifically authorized by a federal, state, or local statute, rule, or regulation.”

5. In its comments filed March 11, 2020, ¶¶ 13-15, 18-19, OCA noted that the record before the FCC “overwhelmingly supports the need to reform ancillary service charges,” as well as the possibility that Reliance was charging both a \$3.00 automated payment fee and a 3 percent credit card processing fee on deposits to inmate calling service accounts. OCA observed that FCC rules authorize an Automated Payment Fee, as for a credit card processing fee, not to exceed \$3.00, and objected that the dual billing would exceed the federal cap. *See* 47 C.F.R. § 64.6020(1). In its recent Order, the Board stated this issue would be resolved in a future order. *See* Order at 6. At Original Sheet 15, in section 4.3.1 of the proposed tariff, Reliance now expressly proposes to charge both a \$3.00 Automated Payment Fee and a 3.3 percent Credit Card Processing Fee. OCA again objects that this proposed dual billing exceeds the federal cap and is unjust and unreasonable. As stated by the FCC, “[w]e permit up to a \$3.00 automated payment fee for credit card, debit card, and bill processing fees, including payments made by interactive voice response (IVR), web, or kiosk. This approach is supported by the record and more than ensures that ICS providers can recoup the costs of offering these services.”² The FCC recently reaffirmed this finding:

Automated payments fund prepaid or debit accounts that can be used to pay for inmate calling services. Inmate calling services consumers typically make these payments to fund their accounts to pay for future calls to family or other loved ones and any associated ancillary services charge fees. These payments occur through multiple methods or types of transactions including credit card payment, debit card payment, and bill processing fees, including fees for payments by interactive voice response, web, or kiosk. They are also made to pay inmate calling service bills for calls that have already been made. The Commission limits these fees to a maximum of \$3.00 per use, based on its prior finding that a \$3.00 cap would more than ensure that ICS providers could recoup the costs of offering these services.³

² *In the Matter of Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 15-136, 30 F.C.C.R. 12763 (Nov. 5, 2015) ¶ 167 (footnotes omitted).

³ *Id.*, Report and Order on Remand and Fourth Further Notice of Proposed Rulemaking, FCC 20-111 (Aug. 6, 2020) ¶ 35 (footnotes and inner quotes omitted).

6. Similar to the proposed tariff revision discussed in paragraph 5 above, revised section 4.3.2 now proposes both a \$5.95 Live Agent Fee and a 3.3% Credit Card Processing Fee. OCA objects to this dual billing for similar reasons. The maximum Live Agent Fee permitted under FCC rules is \$5.95. 47 C.F.R. § 64.6020(b)(3). As the FCC has explained, “[M]ultiple ICS providers . . . as well as [others] all agree that [\$5.95] is the correct rate. This \$5.95 fee may only be charged once per interaction with a live operator, regardless of the number of tasks completed in the call, and live operator calls may not be terminated in order to attempt to charge this fee an additional time.”⁴ The live operator fee is thus intended to include all tasks completed in the call, including the use of a credit or debit card to make a deposit. Adding a separate credit card processing fee on top of the live agent fee defeats the purpose of the \$5.95 cap and is unjust and unreasonable.

WHEREFORE, OCA requests that the issues identified above be given further consideration prior to approval of any proposed tariff.

Respectfully submitted,

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⁴ *In the Matter of Rates for Interstate Inmate Calling Services*, note 2 above, ¶ 168.