

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

PRODIGY SOLUTIONS, INC.

DOCKET NO. TF-2019-0032

ORDER ADDRESSING REQUESTS FOR CONFIDENTIALITY

PROCEDURAL BACKGROUND

On June 21, 2019, and June 25, 2020, Prodigy Solutions, Inc. (Prodigy), an inmate calling service (ICS) provider, filed requests with the Utilities Board (Board) to receive confidential treatment for certain information, including responses to Board questions in a May 24, 2019 order and the names and locations of Iowa correctional facilities that Prodigy contracts with to provide ICS. Prodigy filed the requests for confidential treatment in Docket No. TF-2019-0032.

On May 27, 2020, the Board issued an order requiring that Prodigy file a revised tariff. In that order, the Board stated the correctional facilities' names and locations could be filed as confidential. On July 28, 2020, Prodigy filed a revised tariff that did not include the names and locations of correctional facilities. On September 4, 2020, the Board issued an order requiring that Prodigy file revisions to the July 28, 2020 revised tariff. The September 4, 2020 order required Prodigy to include a tariff page for the name and location of any correctional facilities where ICS is provided and stated the information could be filed as confidential information. On October 8, 2020, Prodigy filed

DOCKET NO. TF-2019-0032
PAGE 2

revisions to the July 28, 2020 revised tariff that stated Prodigy would file the names of correctional facilities where Prodigy currently provides service as confidential.

On July 14, 2020, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed a resistance to the June 25, 2020 request for confidential treatment. On September 2, 2020, OCA filed additional information in support of the resistance.

REQUESTS FOR CONFIDENTIAL TREATMENT

A. Prodigy's Position

In the June 21, 2019 request, Prodigy states that the information provided in response to Board questions should be held confidential pursuant to Iowa Code § 22.7(3) because the information consists of company and customer trade secrets that are “confidential and proprietary information.” Prodigy also asserts the information is confidential pursuant to Iowa Code § 22.7(6) as “the Confidential Materials constitutes a report to this Board which, if released, would give advantage to competitors and serve no public purpose.” Prodigy also states “maintaining confidentiality of such information maximizes Prodigy Solutions’ ability to operate at the lowest reasonable cost, substantial public benefits result from confidential treatment and no tangible public benefits would result from release.”

In the June 25, 2020 request for confidential treatment, Prodigy filed redacted names and locations of correctional facilities where it provides ICS as confidential.

DOCKET NO. TF-2019-0032
PAGE 3

Prodigy made the same arguments in support of its June 25, 2020 filing that it did for the June 21, 2019 filing.

B. OCA's Position

In its July 14, 2020 resistance, OCA states the filings with the Board and the correctional facilities are subject to the Iowa Open Records Law, Iowa Code chapter 22, which “establishes a presumption of openness and disclosure.” Citing *Iowa Film Prod. Servs. v. Iowa Dep’t of Econ. Dev.*, 818 N.W.2d 207, 217-18 (Iowa 2012). OCA also states that the ICS providers do not provide “appropriate justification” as to why the names and addresses of correctional facilities should be held as confidential, as it is not a trade secret and knowing this information would not give advantage to competitors. Additionally, OCA states the correctional facilities themselves do not seek confidential treatment, nor did any correctional facilities join an application for confidential treatment, and various facilities name their provider on the correctional facility’s website. OCA further states, “The identity of a correctional facility’s inmate calling service provider is properly a matter of public record.”

In its September 2, 2020 filing, OCA provided additional information to support the resistance to applications for confidential treatment. OCA attached a Federal Communications Commission (FCC) order, WC Docket No. 12-375, that denies requests of ICS providers confidential treatment for facility names. OCA summarizes the FCC order by stating that “much, if not all, of the information regarding . . . facility names . . . is publicly available.” Examples include ICS providers putting the facility

DOCKET NO. TF-2019-0032
PAGE 4

names on their website and facilities naming their providers on the facilities' website.

OCA further summarizes the FCC order by stating "there is a strong public interest in making providers' rates and charges at the facilities each serve publicly available."

Lastly, OCA summarizes the FCC order by stating "[t]he inmate calling service providers that have requested that the Commission treat facility names . . . as confidential have provided no meaningful justification as to why disclosure would be detrimental to them."

C. Board Discussion

With regard to the information redacted from the June 21, 2019 response, the Board finds that the information is already public information and should not be granted confidential treatment. Specifically, Prodigy filed as confidential, in Attachment A to the June 21, 2019 response, statements regarding: (1) Board approval of posting and blocking rules, (2) how rates are consistent with FCC rates, (3) where rates are posted in correctional facilities, (4) charges for ancillary service, (5) a statement that inmates are not billed for calls, (6) a statement that inmates may call any number not restricted by the correctional facility, (7) a response to the question of whether Prodigy was aware of the rule making in Docket No. RMU-2018-0022, (8) a statement regarding a reference to FCC order 97-371, and (9) a response to the question of whether there is a reference to AT&T FCC Tariff No. 10 in the Prodigy tariff. The responses do not contain information that is not available to the public or that would give advantage to a competitor.

DOCKET NO. TF-2019-0032
PAGE 5

With regard to the request for confidential treatment of the names and locations of the correctional facilities where Prodigy provides inmate calling service, the Board has reconsidered its decisions allowing for this information to be held as confidential due to several factors, including but not limited to, the additional support filed by OCA regarding the FCC treatment of the names and locations. This information indicates the names and locations where inmate calling service companies provide service are already public information.

In addition, other inmate calling service companies include the names and locations of the correctional facilities where that company provides service in the tariff. There appears to be no reason for some companies to make the information public while others are allowed to keep the information confidential. Upon review of the issue, the Board finds that there is a public interest in knowing where a company provides inmate calling service, similar to knowing the rates charged for inmate calling.

Pursuant to 199 IAC 1.9(8), the Board will allow Prodigy 14 days to seek appeal of this decision in district court. If an appeal is not sought, Prodigy will be required to file in its tariff the names and locations of the correctional facilities where Prodigy provides ICS. If Prodigy discontinues service to a correctional facility, or provides service to a different correctional facility, then Prodigy will be required to file a revised tariff with that information.

DOCKET NO. TF-2019-0032
PAGE 6

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The applications for confidential treatment filed by Prodigy Solutions, Inc., in Docket No. TF-2019-0032, on June 21, 2019, and June 25, 2020, are denied.

2. The information for which confidential treatment is denied in Ordering Clause 1 shall be held as confidential for 14 days to allow for an appeal to the district court.

UTILITIES BOARD

Geri Huser Date: 2020.11.10
12:46:39 -06'00'

ATTEST:

Anna Hyatt Date: 2020.11.13
09:04:44 -06'00'

Richard W. Lozier, Date: 2020.11.10
Jr. 13:14:24 -06'00'

Dated at Des Moines, Iowa, this 13th day of November, 2020.