

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD

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IN RE:

RELIANCE TELEPHONE OF GRAND  
FORKS, INC.

DOCKET NO. TF-2019-0026

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**COMMENTS**

The Office of Consumer Advocate (OCA), Iowa Department of Justice, appreciates the proposed revised tariff provisions filed by Reliance Telephone of Grand Forks, Inc. (Reliance) on January 6, 2021, which address most of OCA’s concerns. OCA still has the following concerns, primarily regarding ancillary charges.

1. The record before the FCC “overwhelmingly supports the need to reform ancillary service charges” for inmate calling services (ICS).<sup>1</sup> As the Board observes, “consistency with FCC rules is important to avoid confusion and to ensure the rates paid by customers are just and reasonable.” Order Requiring Filing of Revisions to Revised Tariff, Dec. 11, 2020 (Order), at 8.

2. Reliance’s previously proposed tariff included a proposed section 4.3.1, “Automated Payment Fee,” with both of the following regarding deposits to an ICS account:

|                            |                         |
|----------------------------|-------------------------|
| Automated Payment Fee      | \$3.00                  |
| Credit Card Processing Fee | 3.3% of Payment Amount. |

3. In earlier comments, OCA objected to the provision. OCA noted that 47 C.F.R. § 64.6020(1) caps the Automated Payment Fee for such deposits at \$3.00. OCA cited the

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<sup>1</sup> *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, 2015 WL 6779887 (FCC 2015) ¶¶ 145, 161.

following explanation from the FCC that the \$3.00 cap is intended to cover any payment card fees:

We 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.<sup>2</sup>

OCA also cited the FCC's more recent further explanation:

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.<sup>3</sup>

4. Reliance's currently proposed tariff includes a revised proposed section 4.3.1,

"Automated Payment Fee," with both of the following:

|                              |                        |
|------------------------------|------------------------|
| Automated Payment Fees       | \$3.00                 |
| Third-Party Transaction Fees | Passed through at cost |

5. Revised proposed section 4.3.1 may comply with the Order, but it appears to confuse two different FCC rules and appears to suggest erroneously that both of the listed charges can be assessed for the same deposit to an ICS account. The \$3.00 cap at 47 C.F.R. § 64.6020(b)(1) is for "Automated Payment Fees." In accordance with 47 C.F.R. § 6000(a)(1),

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<sup>2</sup> *In the Matter of Rates for Interstate Inmate Calling Services*, note 1 above, ¶ 167 (footnotes omitted).

<sup>3</sup> *In the Matter of Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order on Remand and Fourth Further Notice of Proposed Rulemaking, FCC 20-111, 2020 WL 4669748 (Aug. 6, 2020) ¶ 35 (footnotes and inner quotes omitted).

“Automated Payment Fees means credit card payment, debit card payment, and bill processing fees, including fees for payments made by interactive voice response (IVR), web, or kiosk.” The *separate* provision at 47 C.F.R. § 64.6020(b)(5) addresses “Third-Party Financial Transaction Fees” from companies such as Western Union or MoneyGram and limits such fees to “the exact fees, with no markup that result from the transaction.” In accordance with the definition at 47 C.F.R. § 64.6000(a)(5), “Third-Party Financial Transaction Fees means the exact fees, with no markup, that Providers of Inmate Calling Services are charged by third parties to transfer money or process financial transactions to facilitate a Consumer’s ability to make account payments via a third party.” There should be no occasion when an ICS provider would be permitted to charge both of these fees for the same transaction. If the person making the deposit to the ICS account is using a third party, the “pass through” referenced by the Board will apply,<sup>4</sup> but the ICS provider will be prohibited from adding any fee over and above the fee passed through by the third party, so the Automated Payment Fee will not apply. If the person making the deposit is not using a third party, the \$3.00 Automated Payment Fee cap will apply, but there will be no third-party to generate a Third-Party Financial Transaction Fee. If Reliance accepts money transfers from third parties, it could propose a *separate* tariff provision authorizing third-party pass through. The reference to Third-Party Transaction Fee does not belong in a tariff provision addressing Automated Payment Fee, however, and it should be stricken from that provision.

6. Revised proposed tariff provision 4.3.2 addresses “Live Agent Fee” and is problematical for the same reason. This tariff provision authorizes both the maximum \$5.95 Live Agent Fee authorized by 47 C.F.R. § 64.6020(b)(3) and a “Third party transaction fee passed through at cost.” Again, there should be no occasion when an ICS provider would be permitted to charge both of these fees on the same transaction. If the person making the deposit

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<sup>4</sup> See Order at 6.

is using a third party, the third party will make the deposit, and the ICS provider will be prohibited from adding anything. If the person making the deposit is using the ICS provider's live agent to make the deposit, there should be no third party. The reference to Third-Party Transaction Fee does not belong in a tariff provision addressing Live Agent Fee, and it should be stricken from that provision.

7. The Order observed that Reliance had no provisions for notifying inmates or customers about how to obtain a refund of unused balances in their prepaid accounts. Order at 7, 9. The better practice is automatic refunds of unused balances at an appropriate time, such as when the inmate is released from custody.<sup>5</sup> If the provision requiring that a refund be requested is retained, the account holder should at least be notified of the unused balance and the need to request a refund, so as to avoid a forfeiture. It is not unreasonable to expect the ICS provider to work with the correctional facility to address the issue. *See* Iowa Code § 476.91(2).

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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OFFICE OF CONSUMER ADVOCATE

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<sup>5</sup> *In re Inmate Calling Solutions, LLC.*, Docket No. TF-2019-0030, Order Requiring Filing of Revised Tariff and Denying Confidential Treatment, Nov. 13, 2020, at 5.