

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

ENCARTELE, INC.

DOCKET NO. TF-2019-0270

ORDER REQUIRING ADDITIONAL INFORMATION

On March 11, 2021, the Utilities Board (Board) issued an order approving the tariff for Encartele, Inc. (Encartele), and requiring additional information to be filed in Docket No. TF-2019-0270. In that order, the Board requested that Encartele file additional information to explain how its third-party transaction fee is calculated, on what basis the fee is charged, and why this fee is substantially higher than other inmate calling service providers in Iowa.

On April 9, 2021, Encartele filed a response to the Board's March 11, 2021 order. In its response, Encartele stated, "Encartele does confirm that the 'passthrough' rate (approximately 5%) is actually less than the extraneous expenses incurred by Encartele for credit card processing cost, including chargebacks." Encartele provided no additional information to explain the basis of the fee and how the fee is calculated.

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Prison Policy Initiative, Inc. (PPI); Global Tel*Link Corporation; and Securus Technologies, Inc., are parties to this docket. On April 12, 2021, PPI filed comments addressing Encartele's April 9, 2021 response.

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In its comments, PPI opposed the inclusion of chargebacks in Encartele's third-party transaction fee. PPI stated that this inclusion of chargebacks is in violation of federal law, which provides that the amount passed through to customers must be equal to "the exact fees, with no markup that result from the transaction." See 47 C.F.R. § 64.6020(b)(5). PPI asserts that the inclusion of chargebacks in a third-party transaction fee allows Encartele to improperly collect fees that do not result from the transaction. PPI also cited various telecommunications and payment card industry practices demonstrating that the inclusion of chargebacks in an ancillary fee is unusual.

On April 29, 2021, Encartele filed a response to PPI's comments. In its response, Encartele stated that PPI filed an affidavit with the intent to discredit Encartele. Encartele also states that it does not owe confidential financial information and proprietary business information to PPI. Finally, Encartele requested that the Board order PPI to pay for all additional legal fees incurred by Encartele from the date the request was filed until the conclusion of the matter.

Based on the review of Encartele's April 9 and April 29, 2021 responses, the Board finds it is still unclear how the third-party transaction fee is calculated. At this time, the Board is unable to determine whether Encartele's third-party transaction fee is consistent with the tariff and is just and reasonable. Encartele's responses do not provide the Board with enough information to complete its review and determination of the fee structure; thus, the Board requires additional information. Encartele cannot charge a fee that is not approved by the Board and outlined in Encartele's tariff. Therefore, Encartele will be required to cease charging the 5% transaction fee until the fee has been approved by the Board.

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The Board agrees with Encartele's statement that it does not owe confidential or proprietary information to PPI, which participates in this docket as a member of the public; however, Encartele must provide any and all information the Board deems necessary to regulate the rates and services of public utilities, pursuant to Iowa Code § 476.4. The Board may consider information provided by a party confidential, pursuant to 199 Iowa Administrative Code 1.9.

Additionally, the Board has received information that indicates Encartele provides inmate calling services at a correctional facility in Davis County, Iowa. Encartele will be required to file an updated tariff sheet if it is providing service to a correctional facility not listed in its tariff, or provide notice to the Board that it is not providing service in Davis County.

Finally, the Board will deny Encartele's request for PPI to reimburse the legal fees incurred by Encartele.

IT IS THEREFORE ORDERED:

1. Within 10 days of this order, Encartele, Inc., shall file the following additional information in the above-captioned docket:
 - a. A complete explanation and description of the chargeback fee and how that fee is consistent with Federal Communications Commission regulations and the tariff approved by the Utilities Board.
 - b. Information about any third party Encartele, Inc., utilizes to process payment card transactions, if applicable.
2. If Encartele, Inc., does not provide inmate calling service to a correctional facility in Davis County, Iowa, Encartele, Inc., shall file a statement to that effect. If Encartele, Inc., does provide inmate calling service to a correctional facility in Davis

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County, Encartele, Inc., shall file a revised tariff sheet that includes all the facilities in Iowa where Encartele, Inc., provides inmate calling service.

3. The request for reimbursement of legal fees filed by Encartele, Inc., on April 29, 2021, is denied.

UTILITIES BOARD

Geri Huser Date: 2021.05.05
12:18:49 -05'00'

Richard Lozier Date: 2021.05.04
13:41:46 -05'00'

ATTEST:

Anna Hyatt Date: 2021.05.05
14:02:06 -05'00'

Joshua J Byrnes Date: 2021.05.04
12:37:14 -05'00'

Dated at Des Moines, Iowa, this 5th day of May, 2021.