

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE:

ENCARTELE, INC.

DOCKET NO. TF-2019-0270

PRISON POLICY INITIATIVE'S REQUEST FOR CLARIFICATION

The Iowa Utilities Board (“Board”) filed an Order Granting Motion for Confidential Treatment and Approving Revised Tariff Sheets (the “Order”) in the above-captioned proceeding on June 16, 2020. The Prison Policy Initiative, Inc. (“PPI”), having previously been granted leave to intervene in this proceeding, submits the request for clarification of the record pursuant to 199 IAC § 7.27.

The Order deals in part with the pass-through fees described in § 4.3.2 of Encartele’s Iowa Tariff No. 3 (filed on April 9, 2021). Based on confidential information submitted by Encartele, the Board found “that Encartele does not include chargebacks” in the credit card processing fee, and concluded that the “fee of approximately 4% is just and reasonable.” Order at 2. The Board went on to say that it will not require Encartele to file additional information or explanation about the fee.

However, the record in this proceeding (including the very text of Encartele’s public-facing terms of use) already establishes that the fee in question is equal to 5% of the principal transaction amount, not 4% as stated in the Order. *See* Declaration of Andrea L. Fenster ¶¶ 2-7 and Exh. 1 at 3 (attached to PPI’s Supplemental Comments Regarding Encartele’s Proposed Tariff (Revised) (Nov. 13, 2020)). No contrary evidence appears in the record, and the Order does not explain whether or how the evidence previously submitted by PPI is incorrect.

This issue of fact is material because inmate communications service ancillary fees are currently the issue of a rulemaking conducted by the Federal Communications Commission (“FCC”). In particular, the FCC is seeking comment on “whether the credit card processing fees encompassed in the automated payment fee are the same credit card processing fees referred to

in the third-party financial transaction fee.” Rates for Interstate Inmate Calling Services, WC Docket No. 12-375, Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking, ¶. 327 (May 24, 2021). In inviting comment on the issue, the FCC referenced the fact that the practice of charging both fees was under investigation by this Board. *Id.* ¶ 327, n.981.

It is unclear why the Board approved an “approximately 4%” credit card processing fee when Encartele appears to actually pass through a 5% processing fee. Because this issue is currently under consideration by other regulatory agencies, it is particularly important that the Board fully explain its factual findings, especially because such findings are based on confidential information that is not available to the public. Accordingly, PPI respectfully requests that the Board clarify that Encartele’s pass-through fee is equal to 5% of the principal amount of the underlying transaction; or in the alternative, explain how the amount charged to Encartele’s Iowa customers differs from the policies and transactional amounts publicly posted on Encartele’s website.

Dated: July 6, 2020

Respectfully submitted,

PRISON POLICY INITIATIVE, INC.

/s/ Peter Wagner

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