

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE:	
PRODIGY SOLUTIONS, INC.	DOCKET NO. TF-2019-0032

OBJECTION

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, files the following Objection to the proposed tariff filed by Prodigy Solutions, Inc. (Prodigy) on June 25, 2010.

1. Sections 4.2 and 4.3 of the proposed tariff set forth a rate for collect and prepaid intrastate inmate calls of \$.31 per minute.
2. By comparison, the interim rate cap established by the FCC for an interstate inmate call is, in the case of a prepaid call, \$.21 per minute, and, in the case of a collect call, \$.25 per minute. 47 C.F.R. § 64.6030.
3. The Prodigy proposed rate for an intrastate call is, in the case of a prepaid call, 48 per cent higher than the interstate maximum, and, in the case of a collect call, 24 per cent higher than the interstate maximum.
4. In the Order Requiring Filing of Revised Tariff dated May 27, 2020, the Board directed Prodigy to provide additional justification for the \$.31 per minute charge and an explanation for why the per-minute rate is the same for prepaid and collect calls. Order at 8, 10.
5. Prodigy's response to the Order did not provide additional justification. It simply stated that the Board approved these rates in 2017, Docket No. TF-2017-0014. There was no investigation in 2017. Prodigy has provided no justification for the \$.31 per minute charge.

6. The costs of providing inmate calling services have been going down, for reasons including increasing movement to Internet protocols, centralized application of security measures, decreasing capital costs for on-site equipment, increased use of prepaid and debit calling, and inter-carrier compensation reforms that reduce the cost of transport and certain long distance charges. *In the Matter of Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-113, 28 F.C.C.R. 14107 (Sept. 26, 2013) ¶¶ 29-31.¹

7. The argument for meaningful oversight and restraint of the rates for inmate calling service (ICS) is compelling. The FCC and a federal appeals court have described such rates as “prohibitive,” “egregious,” “excessive,” “unaffordable,” “extraordinarily high,” and “absent regulatory intervention, . . . likely to rise.” *In the Matter of Rates for Interstate Inmate Calling Services*, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 15-136, 30 F.C.C.R. 12763 (FCC 2015) (*FCC ICS Order* 2015) ¶ 1; *Global Tel*Link v. FCC*, 866 F.3d 397, 404 (D.C. Cir. 2017) (*Global Tel*).

8. As explained by the court, excessive rates for inmate calling deter communication between inmates and their families, with substantial and damaging social consequences. Inmates’ families may be forced to choose between putting food on the table or paying hundreds of dollars each month to keep in touch. When incarcerated parents lack regular contact with their children, those children—2.7 million of them nationwide—have higher rates of truancy, depression and poor school performance. Barriers to communication from high inmate calling

¹ In earlier proceedings in Iowa, there was testimony that a hypothetical ICS provider with 100 phones in a correctional facility, which prior to IP conversion might have needed 100 separate phone lines at a probable cost of about \$21 each or \$2100 total per month, might, following conversion, need only a single DSL or cable line, at a cost of about \$120 per month. *In re Securus Technologies, Inc.*, Docket No. TF-2017-0041, Pre-Filed Reply Testimony of William Pope, Oct. 27, 2017, at 8 ll. 10-21.

rates interfere with inmates' ability to consult with their attorneys, impede family contact that can make prisons and jails safer spaces, and foster recidivism. *Id.* at 405 (quoting FCC).

9. As further explained by the court, inmate calling services are “a prime example of market failure.” Inmates and their families cannot choose for themselves the inmate calling provider on whose services they rely to communicate. Instead, correctional facilities each have a single provider of inmate calling services. And very often, correctional authorities award that monopoly franchise based principally on what portion of inmate calling service revenues a provider will share with the facility—*i.e.*, on the payment of “site commissions.” Accordingly, inmate calling providers compete to offer the highest commission payments, which they recover through correspondingly higher end-user rates. If inmates and their families wish to speak by telephone, they have no choice but to pay the resulting rates. *Id.*, at 404.

10. It is especially appropriate that oversight of inmate calling service rates occur at the state level, because approximately eighty per cent of inmate calls are intrastate calls. *FCC Order 2015*, ¶ 7. The FCC does not have jurisdiction over intrastate calls. *Global Tel*, at 408-12. The state does. In Iowa, that jurisdiction is vested in the Board. Iowa Code § 476.91 (2019); *Equal Access Corp. v. Utilities Bd.*, 510 N.W.2d 147 (Iowa 1993).

11. Despite the apparent consensus among FCC commissioners and *Global Tel* reviewing judges regarding the excessive charges, the damaging consequences and the market failures, a solution has long been elusive. On a divided vote, the *Global Tel* court disapproved in certain respects the FCC's approach to establishing just and reasonable rates and remanded to the FCC for further proceedings.

12. The burden of proof in establishing the justness and reasonableness of the proposed rates rests with Prodigy. *See* Iowa Code §§ 476.4(1), 476.8(2) (2019).

WHEREFORE, OCA objects to the \$.31 per minute rate set forth in the proposed tariff as unjust and unreasonable and urges that it be investigated and disapproved.²

Respectfully submitted,

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OFFICE OF CONSUMER ADVOCATE

² Section 2.13 of the proposed tariff states: “The Company does not provide collect service to inmates in its facilities in Iowa.” This statement is confusing, because the tariff elsewhere contains provisions for collect call services, including sections 3.2, 3.3 and 4.2. Prodigy should provide a clarification.