

**STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD**

IN RE: RELIANCE TELEPHONE OF GRAND FORKS, INC.	DOCKET NO. TF-2019-0026
IN RE: PRODIGY SOLUTIONS, INC.	DOCKET NO. TF-2019-0032
IN RE: SECURUS TECHNOLOGIES, INC.	DOCKET NO. TF-2019-0033
IN RE: LEGACY LONG DISTANCE INTERNATIONAL, INC.	DOCKET NO. TF-2019-0035
IN RE: GLOBAL TEL*LINK	DOCKET NO. TF-2019-0039
IN RE: PUBLIC COMMUNICATIONS SERVICES, INC.	DOCKET NO. TF-2019-0040

REPLY COMMENTS OF PRISON POLICY INITIATIVE

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I. Introduction

Pursuant to the Board’s Order Granting Petitions to Intervene and Requiring Additional Information, issued May 24, 2019 (the “May 24 Order”), Prison Policy Initiative, Inc., respectfully submits the following comments in reply to May 24 Order and the information filed by various inmate communications service (“ICS”) carriers in the above-captioned proceedings.

II. PPI’s Objective and Our Analysis of the Injustices That Fall Outside of the Current Tariff Proceedings

The Prison Policy Initiative (“PPI”) intervened in this proceeding because we wanted to help the Board ensure that the costs to consumers are reasonable. There are many ways to bring order to this dysfunctional and unfair market, but our suggestions are designed with an eye toward how the Board can meet its objective of ensuring reasonable rates through a process that is administratively efficient for the Board, ICS carriers, and correctional facilities.

To prepare for this comment and the expected problem of needing to reply to redacted documents, we conducted a comprehensive review of Iowa ICS carriers and their rates. We also noted that the Board did not, in Attachment A to the May 24 Order, formally request that companies provide data on facility site commissions. Because we see site commissions as one of the key drivers of unreasonable rates, we undertook an effort to collect some of this data as well.

In this section, we review the collected information and present our general findings that relate to the long-term regulation of this industry. Subsequent sections address concerns about the filings of the six above-captioned carriers as a group, and then respond to the companies individually. In the present section we address: providers who did not file tariffs, providers with objectionable rates that we did not formally object to, and our general findings on the causes of high rates in calls home from jails.

A. Not All ICS Carriers Have Filed Tariffs

There currently is no comprehensive public list of which ICS carriers currently serve which Iowa facilities; and, because some of the companies are redacting their responses to the Board, there is no straightforward way for the public to make sure that all relevant information is being brought to the Board. For that reason, we set out to investigate which company serves each Iowa jail, and we discovered that tariffs were not filed by three companies that hold contracts covering seven county jails.¹

While the Board is aware that Encartele and Lattice have not filed tariffs (as evidenced by the Board's June 14, 2019 order in Docket No. RMU-2017-0004), our research suggests that both companies are currently active in Iowa. Further, we discovered that the Wisconsin-based Turnkey Corrections, which does not appear to be currently registered with the Board, is currently serving two facilities (see table 1, below).

¹ This finding is based on our survey of rates and providers that was conducted in November 2018. It is unlikely, but possible, that a county that contracted with a major provider in November 2018 has since transitioned to a new provider not reflected in this analysis. In addition, we discovered that Calhoun, Franklin, Hancock, Lucas, and Warren Counties do not operate county jails, so it is therefore not a problem that those counties are not represented in the tariffs before the Board.

ICS Provider	Facilities Contracting with ICS Provider
Encartele	Floyd County, Jackson County, Marshall County
Lattice	Davis County, Johnson County
Turnkey	Marion County, Pottawattamie County

Table 1. Facilities and providers not currently (as of June 28) represented in the Board’s tariff proceeding. We identified providers and counties served by a combination of our previous rate surveys, reviewing the providers’ websites, and calling the county jails. For our full state-wide analysis, see Appendix 1.

B. PPI’s Limited Resources Prevent Us from Objecting to Every Tariff That Contains Objectionable Rates

As part of our comprehensive review of providers and rates, we discovered a few companies that we did not object to, but which propose or charge objectionable rates \$0.01 to \$0.04/minute above our proposed maximum rate of \$0.21/minute for debit calls, and \$0.25/minute for collect (see next section). For the most part, these are smaller companies serving a smaller number of — or zero — often smaller facilities. We considered filing an additional intervention motion, but because the PPI is a public policy organization with a limited budget, we choose to concentrate our efforts on the most egregious situations. Nonetheless, to the degree that our state-wide review is useful to the Board, we consider the rates proposed by the following companies objectionable for proposing rates higher for in-state calls than the FCC allows for out-of-state calls:

- Combined Public Communications (Docket No. TF-2019-0031): \$0.25/minute
- Network Connections International Corp. (NCIC) (Docket No. TF-2019-0037): \$0.25/minute in some facilities
- Paytel (Docket No. TF-2019-0036): Rate option one is \$0.25/minute, although this does not appear to be used by any current Iowa facility
- ICSolutions (Docket No. TF-2019-0030): \$0.22/minute in one facility
- Encartele (Docket No. TF-2013-0364, has not filed a new tariff): \$0.30–\$0.90/minute
- Lattice (Docket No. TF-2016-0284, has not filed a new tariff): charging as much as \$0.50/minute
- Turnkey (no tariff filed), rates unknown

C. Our General Analysis Of What Is Driving High Costs, and Our Proposal for a Safe-Harbor Model of Rate Regulation

Historically, observers have concluded that site commissions paid to correctional facilities are the leading cause of high ICS rates. Because the Board did not, in Attachment A to the May 24 Order, require the companies to submit general information or specific data on site commissions, we set out to collect as much information as we could via public information requests.² Our hope was to save the Board some time and, if we were not successful at getting comprehensive data, to demonstrate what the data would be likely to show if the Board was to require its submission.

We discuss the available commission data in more detail when discussing individual tariffs, but we have these general findings:

- Eliminating commissions would greatly reduce the cost of calls, and would bring almost all rates to near or below the safe-harbor levels that we propose as a mechanism to ensure reasonable rates.
- Neither commissions nor facility size completely explain the variations in rates. As we explain in our recent report on overall trends in ICS regulation, the most significant explanation of high rates appears to be the choice of vendor, as some carriers have proven to be particularly skillful at enticing counties to sign contracts that benefit the ICS carrier. See Peter Wagner & Alexi Jones, *State of Phone Justice* (Feb. 2019), available at https://www.prisonpolicy.org/phones/state_of_phone_justice.html.

Based on the current record in these proceedings, PPI believes that the Board should adopt an intrastate safe harbor based on the FCC's ICS rules. After extensive data collection and analysis, the FCC set rate caps of \$0.21 per minute (\$0.25 for collect calls), with a safe harbor level of \$0.12 (or \$0.14 for collect), within which rates would benefit from a presumption of reasonableness. *In the Matter of Rates for Interstate Inmate Calling Services*, WC Docket No.

² The material we received as a result of these requests is available at https://www.prisonpolicy.org/phones/iowa_commissions_and_contracts.html.

12-375, Second Report and Order and Third Further Notice of Proposed Rulemaking [hereinafter, “Second Report & Order”] ¶ 14, 30 FCC Rcd. 12763, 12772 (Nov. 5, 2015).

As to Iowa intrastate rates, the Board has declined to adopt rate caps in Docket Number RMU-2017-0004, instead choosing to direct carriers to file individual tariffs for review and approval. Consistent with this approach, PPI encourages the Board to adapt the FCC’s safe harbor rates of \$0.21 (\$0.25 collect) when reviewing intrastate rates in AOS tariffs. Under this approach, rates within the safe-harbor range would be entitled to a presumption of reasonableness, whereas a carrier desiring to charge rate in excess of the safe harbor would need to satisfy their burden of proving that such rates are necessary for the carrier to earn a reasonable rate of return. PPI respectfully suggests that a safe-harbor model provides ICS carriers with certainty while allowing carriers with unusually high—but legitimate—costs to obtain a waiver from the \$0.21 limit.

One potential scenario that the Board should anticipate is that a carrier may seek a waiver from the safe-harbor limit based on particularly high site commissions charged by a correctional facility. In any such instance, PPI encourages the Board to adopt the standard promulgated by the FCC, namely that site commissions can only be recovered through end-user rates to the extent that the site commissions cover costs that are “reasonably and directly related to the provision of ICS.” *In the Matter of Rates for Interstate Inmate Calling Services*, WC Dkt. No. 12-375, Order on Reconsideration, at ¶¶ 14-30, 31 FCC Rcd. 9300, 9308-9317 (Aug. 9, 2016). In its Order on Reconsideration, the FCC increased its ICS rate caps by 2¢ to 9¢ per minute (depending on facility size) to account for facility costs that are reasonably and directly related to the provision of ICS. These adjustments were made based on detailed cost data submitted by ICS carriers.³ *Id.* ¶¶24-26, 31 FCC Rcd. at 9312-9314. In the above-captioned proceedings,

³ Notably, the FCC highlighted the shortcomings of its inability to collect cost data directly from correctional facilities. *See* Order on Reconsideration ¶ 24, 31 FCC Rcd. at 9312. Using its plenary powers under Iowa Code § 476.8(2), the Board should collect detailed facility-level cost data with respect to any carrier who seeks to exceed the safe-harbor rates.

there is no such detailed information,⁴ and it is the carriers' burden to prove the reasonableness of its rates. Accordingly, the Board should adopt the safe-harbor rates advocated by PPI, and any carrier who seeks to exceed those rates based in whole or in part on site-commission expenses should be required to prove that those site commissions are reasonably and directly related to the provision of ICS.

III. General Observations Regarding Carriers' Information Filings

The ICS carriers that are subject to these proceedings are classified as alternative operator services ("AOS") companies as defined in Iowa Code § 476.91(1)(a). After reviewing the tariffs filed by these AOS companies, the Board ordered the companies to file additional information to help the Board "determine if the provisions and rates and services are just and reasonable," as required by Iowa law. May 24 Order, at 4. As explained below, PPI believes that the information filed in response to the Board's May 24 Order illustrates the need for a more robust inquiry into ICS rates. While such an inquiry need not involve the procedural complexity of a traditional rate case under rate-of-return regulation, it should address one of the primary drivers of unreasonably high ICS rates: correctional facility site commissions.

Concerns based on individual tariff provisions are addressed later in this reply comment. To begin, PPI highlights the following four broad concerns that arise from the carriers' filed tariffs and the information provided in response to the May 24 Order: the role of site commissions, unreasonable redactions, disregard of customer' billing rights, and disregard of unclaimed funds laws.

A. Carrier Responses to the Board's Questions Reveal the Need for More Targeted Data Collection

The ultimate point of these proceedings is to ensure that ICS customers pay just and reasonable rates. Presumably to elicit information relevant to this inquiry, the Board asked each carrier to "explain how the company determined the rates listed [in its tariff]." May 24 Order,

⁴ The one notable exception is Reliance Telephone, which did provide information about the commissions it pays to correctional facilities. While PPI appreciates Reliance's transparency, these data do not reveal how correctional facilities use this commission revenue, and indeed, Reliance may not even be in a position to provide such information.

Attch. A, item 4. The unredacted responses to this question indicate that rates are essentially negotiated by carriers and correctional facilities, but the responses give no assurance that the negotiation process protects ratepayers or ensures just and reasonable rates. Indeed, Global Tel*Link and Public Communications Services (collectively “GTL”)⁵ state that they set rates largely based on the rates charged by competitors, behavior that recalls the anticompetitive practice of parallel pricing. *See In re Global Tel*Link Corp.*, Dkt. No. TF-2019-0039 and *In re Public Comm’cns Servs.*, Dkt. No. TF-2019-0040, Response to Request for Additional Information on Tariffs [hereinafter “GTL Response”] (Jun. 24, 2019), at 7.

Most notably, the evidentiary record suffers from a lack of concrete information about facility site commissions, which can often be the carriers’ largest outlay. Yet, as the FCC has found, site commissions can recover facility costs that are reasonably and directly related to providing ICS, or site commissions can simply represent an apportionment of profit between facilities and carriers. *Compare* Order on Reconsideration with *In the Matter of Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking ¶ 54, 28 FCC Rcd. 14107, 14135 (Sept. 26, 2013). Because most carriers (with the exception of Reliance Telephone) have not provided detailed information on site commissions, the Board should conduct additional, targeted, data collection to better identify carrier costs and the use of site commissions.

B. Unjustified Redactions by Some Carriers Hamper Public Participation in These Proceedings

PPI has objected to tariffs filed by six ICS carriers. Of those six carriers, five redacted some or all information in their responses to the May 24 Order.⁶ Many of these redactions strike PPI as unreasonable under applicable law. As relevant here, documents filed with the Board are subject to public disclosure except as exempted under the Iowa Open Records Act (“ORA,” Iowa

⁵ Global Tel*Link and Public Communications Services filed a joint response in proceedings TF-2019-0039 and TF-2019-0040. Because these two entities appear to be under common control, PPI refers to them collectively as “GTL” throughout this comment.

⁶ Commendably, the sixth carrier (Reliance Telephone of Grand Forks, Inc.) filed the most detailed financial information of any of the responding carriers, with no redactions.

Code § 22.1, *et seq.*). 199 Iowa Admin. Code 1.9(5). Iowa courts have consistently held that the ORA must be liberally interpreted in favor of disclosure, while its exemptions are to be narrowly construed. *E.g.*, *Gannon v. Board of Regents*, 692 N.W.2d 31, 38 (Iowa 2005). Consistent with Iowa’s policy of open government, a party opposing disclosure of a public record bears the burden of proving that a statutory exemption applies. *Dierks v. Malin*, 894 N.W.2d 12, 18 (Iowa App. 2016) (quoting *Clymer v. City of Cedar Rapids*, 601 N.W.2d 42, 45 (Iowa 1999)).

The AOS companies that withheld information from their filings did so by invoking two ORA exemptions in support of withholding information: the exemption for trade secrets, and the so-called government-reports exemption. Iowa Code §§ 22.7(3) (trade secrets) and (6) (exempting “[r]eports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose”). While these exemptions may validly be claimed for certain targeted portions of the carriers’ responses, some responding carriers sought to withhold more information than is allowed under the ORA.

Prodigy Solutions and Legacy Long Distance International.⁷ The carriers in Docket Number TF-2019-0032 and TF-2019-0035⁸ completely withheld all information filed in response to the May 24 Order. These carriers’ wholesale redactions prevent commenters such as PPI from meaningfully participating in this proceeding and are not justified under applicable law. Prodigy and Legacy rely on both the trade-secrets and government-report exemptions; yet neither company has cited specific facts that justify their wholesale withholding of information, instead choosing to rely on generalized recitations of basic legal standards.

As to the trade secrets exemption, Prodigy and Legacy have made materially misleading representations to the Board and have not followed applicable procedures. Prodigy and Legacy

⁷ The argument in this section applies equally to the responses filed by Inmate Calling Solutions, LLC (Dkt. No. TF-2019-0030); Combined Public Communications, LLC (Dkt. No. TF-2019-0031); Correct Solutions, LLC (Dkt. No. TF-2019-0034); and Network Communications International Corp. (Dkt. No. TF-2019-0037), all of which filed completely redacted responses to the May 24 Order. Due to PPI’s limited resources, we have not formally intervened in these proceedings, nor would any point be served by intervention at this point, given the carriers’ failure to provide any evidence upon which PPI could comment.

⁸ Prison Policy Initiative objected to Legacy Long Distance’s filed tariff on April 22, 2019, but moved to withdraw its objection on June 10, 2019, citing changes to Legacy’s proposed tariff. Notwithstanding the pending withdrawal of our formal objection, PPI objects to Legacy’s unreasonable redactions as an abuse of Iowa’s ORA.

both seek protection under Iowa Code § 22.7(3) by stating that trade secrets “have been defined as ‘. . . information which is used in one’s business, and which gives him an opportunity to obtain an advantage over competitors who do now [sic] know or use it.’ *Farnum v. G.D. Searle*, 339 N.W.2d 384, 389 (Iowa 1983).” *In re Prodigy Solutions*, Dkt. No. TF-2019-0032, Application for Confidential Treatment (Jun. 21, 2019), at ¶ 8; *In re Legacy Long Distance Int’l*, Dkt. No. TF-2019-0035, Application for Confidential Treatment (Jun. 24, 2019), at ¶ 8. This quotation from *Farnum* is misleading because it omits a major element of trade secret status: information that is subject to protection must be “the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Iowa Code § 550.2(4)(b). Some of the information requested in the May 24 order is patently non-secret and Prodigy and Legacy utterly fail to carry their burden of proving otherwise. For example, the Board asks carriers to explain certain terms in filed tariffs. May 24 Order, Atch. A, items 2, 3, 6, 7, 11, and 12. Tariffs are *publicly filed* documents, and it is difficult to imagine a scenario in which a carrier’s response to these questions could implicate confidential trade secrets. As another example, the Board asks how it conveys the rates in its publicly filed tariffs to customers. *Id.*, item 5. Again, it is inconceivable how a company’s procedure for conveying publicly tariffed rates to its customers (who, as far as PPI is aware, are not required to enter non-disclosure agreements) could possibly involve confidential information.

Prodigy and Legacy have also failed to follow the Board’s prescribed procedure. When a party files materials that it wishes to withhold from public disclosure, that party must submit a request that

contain[s] a statement of the legal basis for withholding the materials from inspection *and the facts to support the legal basis relied upon*. The facts underlying the legal basis shall be supported by affidavit executed by a corporate officer . . . with personal knowledge of the specific facts.

199 Iowa Admin. Code 1.9(6)(b) (emphasis added). Prodigy and Legacy have submitted requests for confidentiality that simply recite the legal standards for trade-secret protection and then announce their conclusion that the withheld information meets the standard. No supporting

facts are to be found anywhere in the application. Moreover, the affidavits filed by Prodigy and Legacy's chief executive officers make conclusory statements concerning the exemption for government reports, but make *no mention whatsoever* of trade secrets. Because Prodigy and Legacy did not comply with the Board's clearly-stated rules, they should not be able to withhold their filings under ORA's trade-secrets exemption. *See also Farnum*, 339 N.W.2d at 391 (affirming trial court's denial of protective order because defendant "did not state facts as opposed to conclusions from which the court could identify what information . . . constituted trade secrets or confidential information" and because the defendant's allegations of "the alleged competitive harm that might occur from disclosure of the data was not particularized").

Prodigy and Legacy's second claim of exemption (the ORA's government-reports exemption) is similarly conclusory, and suffers from both procedural and substantive defects. Procedurally, the carriers have failed to describe the nature of the information they have withheld. The only description provided by either carrier is the cryptic observation that the redacted information "includes specific customer usage and billing information." Even assuming for the sake of argument that customer usage and billing information is properly withheld, just because the redacted material *includes* confidential information, does not mean that the carriers can withhold the entirety of their responses. Iowa, like most jurisdictions, recognizes that a single public record may contain disclosable and confidential information, in which case the confidential information should be segregated while the rest of the document should be released. *See Op. Atty. Gen. No. 92-6-2(L)* (Jun. 3, 1992) (when a disclosable public record contains specific parts exempt from disclosure, "*information* that falls within those exemptions may be withheld from disclosure" (emphasis added)).

Substantively, to invoke the protections of the government-reports exemption, the party opposing disclosure must prove three elements: (1) the information is a report to a governmental agency, (2) disclosure would give advantage to competitors, and (3) disclosure would serve no public purpose. Iowa Code § 22.7(6). Prodigy and Legacy have failed to prove the second and third required elements. Regarding the second element, the carriers have provided no

explanation of the competitive disadvantage that could result from disclosure, beyond entirely conclusory and self-serving boilerplate in the accompanying affidavits. *In re Prodigy Solutions*, Dkt. No. TF-2019-0032, Affidavit of James B. Hartman (Jun. 21, 2019) (“[I]t is my opinion that the Confidential Materials comprise a report to a government agency (the Iowa Utilities Board) and that, if released, would give advantage to competitors and serve no public purpose.”); *see also In re Legacy Long Distance Int’l*, Dkt. No. TF-2019-0035, Affidavit of Brian Hill (Jun. 24, 2019) (identical statement). Prodigy and Legacy’s generalized claims of competitive harm are rebutted by the actions of the other AOS companies that filed largely unredacted responses to the May 24 Order. The behavior of Reliance Telephone, in particular, casts grave doubt on Prodigy and Legacy’s assertions: Reliance Telephone has the most contracts at stake (serving 55 of Iowa’s 99 counties), yet it filed detailed financial information, apparently unconcerned about competitive harm resulting from the release of this relatively innocuous data.

Nor have Prodigy and Legacy’s proven the third element required by Iowa Code § 22.7(6), namely that disclosure would serve no public purpose. The carriers simply cite “customer usage and billing information,” and expect the Board to rubber stamp their requests for confidentiality. But Iowa courts have compelled release of commercial information, *even when it may result in competitive harm*, if the public interest supports disclosure. Most notably, the Court of Appeals has affirmed the court-ordered release of operational cost data contained in Medicaid reports filed by nursing homes. *Craigmont Care Ctr. v. Dept. of Social Servs.*, 325 N.W.2d 918 (Iowa App. 1982) (per curiam). Even though the reports “contain[ed] detailed financial information from each of the participating nursing homes” regarding the facilities operating costs (*id.* at 919-920), and the release could cause inconvenience or embarrassment for some of the report filers, the court nonetheless ordered disclosure, remarking:

We find that the strong public interests discerned by the trial court are indeed legitimate and compel a conclusion that public disclosure of the cost reports is warranted. The free flow of information regarding the nursing home industry in Iowa is of sufficient importance to allow the interested public access to this information. . . . Given the magnitude of the industry, the number of people it affects, and the tax dollars used to

support the industry, the public interest at stake overshadows any advantages that competitors might derive from access to the cost reports.

Id. at 921. Here, the danger of competitive harm is much less (none of the Board's current information requests would reveal details of carrier costs), although the public interest is comparable. AOS carriers such as Prodigy and Legacy derive 100% of their revenue from government-issued contracts that confer monopoly power on the winning bidder. Specific to the utility industry, the Iowa Attorney General has expressly declined to adopt any *per se* rule applying Iowa Code § 22.7(6) to utility customer data. *See* Op. Atty. Gen. No. 97-10-1(L) (Oct. 22, 1997) (utility records regarding customer water usage are public records, and are not automatically exempt from disclosure under § 22.7(6) because release may serve the public interest).

In summary, Prodigy and Legacy's wholesale withholding of information does not come close to meeting the requirements of Iowa's ORA, and the carriers' blithely conclusory filings cast doubt on their good faith. The Board should immediately deny Prodigy and Legacy's requests for confidentiality pursuant to 199 Iowa Administrative Code 1.9(6)(d).

Securus. Compared to Prodigy and Legacy, Securus's redactions are modest. Securus redacted only its response to the Board's fourth information request ("For the filed tariff, explain how the company determined the rates listed"). While it is plausible that Securus's response could contain some properly redacted answer, PPI objects to Securus's withholding of its entire answer, and encourages the Board to take a hard look at the unredacted filing when deciding Securus's request for confidentiality.

GTL. Compared to some its competitors, GTL’s redactions are comparatively modest, yet they are equally inappropriate because six of the nine redactions are of patently public information, and the remaining three redactions about the number of phones are of trivial importance. PPI expresses concern about GTL’s legal assertion that the names of facilities (published on its own website, see Figure 1) and their locations (which is public information and critical to distinguishing similar sounding facilities)

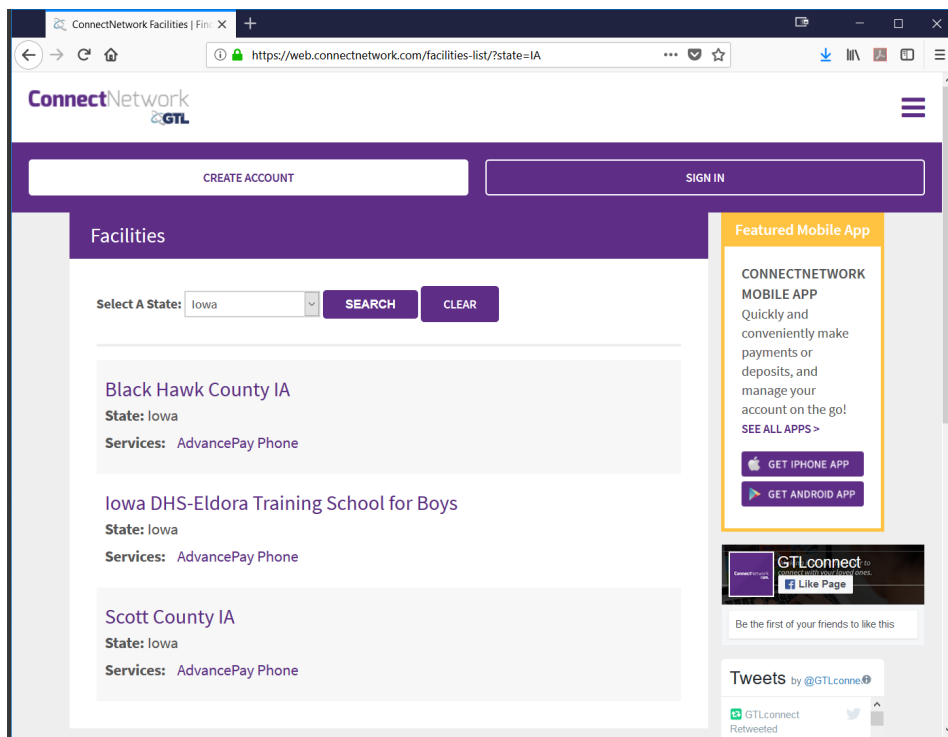


Figure 1. Facility Search Page on connectnetwork.com (operated by Global Tel*Link)

is protected under both the trade-secrets and government-report exemptions in Iowa Code § 22.7. GTL provides no authority for the proposition that the very existence of the contract is confidential, and it is difficult to imagine such authority given Iowa’s broad policy in favor of disclosure. Moreover, as mentioned previously, the two exceptions upon which GTL relies both apply only to information that the submitter has kept confidential. GTL’s own website contains a list of Iowa facilities in which it does business, thus vitiating any argument that the mere existence of those contracts should be withheld. The PPI is not objecting to these redactions because we already know the important parts of the redacted information, not because we think the redaction is appropriate.⁹

⁹ In addition, subsequent research confirms that GTL’s list of facilities on their website appears to be accurate. In our comment of May 13 2019, we expressed concern that Johnson County was served by GTL because that county jail’s website says that they are served by GTL. We requested the contract via an open records request and concluded that another provider now serves that county. Comments of Prison Policy Initiative (cross-docketed in the six above-captioned proceedings) [hereinafter “PPI May 13 Comment”] (May 13, 2019), at 16, n.20.

C. Carriers Admit to Not Fulfilling their Duty to Provide Customer Billing Statements

The Board's May 24 Order directs ICS carriers to "[e]xplain how an inmate is billed for the calls made through the company's telephones and whether the bill is available online." May 24 Order, Attch. A, item 8. The filed responses essentially admit that ICS carriers do not even pay lip service to incarcerated customers' rights to understand the charges they pay. Iowa law requires AOS companies to provide customer bills. 199 Iowa Admin. Code 22.4(3). The unredacted filings¹⁰ indicate that ICS carriers routinely disregard this legal requirement with respect to incarcerated customers.

Carriers generally deflected responsibility for providing bills, or simply referenced ways in which incarcerated customers can obtain their account balance. Neither of these responses are meritorious. The Board requires telephone utilities to provide bills that "contain a clear listing of all charges." 199 Iowa Admin. Code 22.4(3)(c)(3). For purposes of this rule, AOS companies are expressly included in the definition of a "telephone utility." *Id.* § 22.1(1).

The refusal of ICS carriers to discharge their billing obligations is evidenced in their responses to the May 24 Order, as detailed in the following paragraphs. This failure of carriers to comply with applicable rules matters because it treats incarcerated customers as second-class customers. Incarcerated ICS users pay substantial amounts (in measurable monetary value) for telecommunications services. As a matter of basic fairness and Iowa law, incarcerated customers are entitled to detailed billing itemizations so that they can practice appropriate personal financial management and ensure the accurate account records. Refusing to provide an entire class of customers with the most basic information regarding account usage bespeaks an intentional disdain for a captive customer base that is forced to use monopoly ICS providers.

Securus. Securus's response states that the company "does not bill inmates for calls, as calls paid for by the inmate are either paid by prepaid debit account or prepaid calling card. Inmates may request a statement of calls made on their debit accounts from the facility." *In re*

¹⁰ PPI is unable to comment on Prodigy and Legacy's billing practices, since these carriers redacted their entire responses, including responses to item 8.

Securus Tech., Dkt. No. TF-2019-0033, Response to Request for Additional Information (Jun. 24, 2019), at 11. This assertion is unpersuasive, because the Board’s billing rule does not limit utilities’ billing responsibilities to only those bills paid in certain manners. To the contrary, the rule expressly waives some of the billing requirements in the case of “calls billed to a commercial credit card.” 199 Iowa Admin. Code 22.4(3)(c)(6). Since no comparable waiver is included for calls billed to a prepaid account, Securus’s theory of exemption from § 22.4(3)(c) lacks merit. Moreover, Securus’s glib claim that incarcerated customers can request billing information from the correctional facility ignores the fact that both state law and Securus’s own contracts specify that Securus—not the facility—is the provider of the telecommunications services that incarcerated customers purchase.

GTL. GTL notes that when facilities allow incarcerated customers to pay for calls (“debit calling”), the payment comes from the customer’s commissary account. GTL then disclaims any responsibility for providing billing statements because “GTL does not maintain information associated with internal inmate ‘debit’ accounts. These accounts are managed by the correctional facility (or a third-party acting on the correctional facility’s behalf).” GTL Resp., at 11. This response is inadequate, as nothing in the Board’s billing rule limits a utility’s billing responsibilities to situations where the utility also controls the payment mechanism. Indeed, the majority of non-incarcerated telephone customers in Iowa likely pay their bills from a bank account, by check, debit card, or electronic fund transfer. Just because telephone utilities do not typically “maintain information” on these customers’ bank account balances does not excuse them from rendering periodic bills consistent with the Board’s rules. Neither should GTL be excused from its billing obligations simply because incarcerated customers pay from commissary accounts.

Reliance. In its response, Reliance states “Phone cards are used by the inmate and the balance available is accessible through the Information Center at the jail and also relayed to the inmate each time they use the card.” *In re Reliance Tel. of Grand Forks*, Dkt. No. TF-2019-0026, Response to Attachment A [hereinafter, “Reliance Response”] (Jun. 7, 2019), at 4. As

noted above, the fact that a customer pays a telephone bill via prepaid account does not change the carrier's billing obligations. Moreover, Reliance inappropriately conflates the available balance with an itemized billing statement. An available balance by itself does not protect customers, because they have no way of verifying the accuracy of previous deductions from their prepaid account.

D. Most Tariffs Do Not Adequately Address the Disposition of Unclaimed Customer Funds

When someone is released from prison or jail, families welcome the chance to reconnect. But all too often, this event is a chance for jail telephone companies to celebrate as well by seizing the balance left over in a phone account. The companies vary in both their policies and in the degree to which — or whether — they describe their policies in their tariffs. From our other research,¹¹ we know that some companies aggressively issue refunds or turn funds over to state unclaimed asset programs. Other companies charge an inactivity fee to consume the balance or just declare the funds “expired,” thus converting such prepaid amounts from deferred revenue to profit. Without clear statements of policy and practice, it is impossible to for consumers (and facility decisionmakers) to know what is and is not an appropriate way to handle Iowa consumers' funds. In the conclusions section of this comment, we offer two suggestions to the Board regarding this problem.

¹¹ For example, see the “Profiting on calls that are never made” section in our 2013 report *Please Deposit All of Your Money* at <https://www.prisonpolicy.org/phones/pleasedeposit.html#refunds>. Note that subsequent to this report and the FCC's ruling, all companies appear to have stopped charging refund fees as such, although their other practices continue. Also see our 2015 eight-state survey of the actual practices — not just the policies — of eleven providers in regards to unclaimed funds. See https://www.prisonpolicy.org/phones/letters_with_exhibits.html#unclaimed. Based on data released by the state of Texas, the average unclaimed balance by a Securus consumer in 2012 was \$28, so the aggregate amount of money that most of the providers are seizing is substantial.

IV. Responses to Individual Carriers' Filings

A. Securus Technologies

In this section we address the resolution of inaccuracies in Securus' filed tariffs, list the questions raised by our analysis of Securus commission reports, and address the question of exploitative "single calls".

Because Securus identified which tariffed locations match which facilities, this largely resolves our concern¹² about potential discrepancies between the proposed tariff and the rates posted to the public on Securus's website. However, Securus's response confirms (but does not acknowledge) one error in the proposed tariff: eight locations — 1, 3, 4, 5, 6, 13, 14, and 15 — that are not being utilized and should therefore be removed from their tariff.

In the interests of allowing the Board to have a more complete view of the facts without waiting for formal discovery, we submitted open records requests for the contracts and commission reports of twelve Securus counties, receiving complete records from four counties, partial responses from three counties and received no records from five counties.¹³ Our analysis suggests several areas where further inquiry is warranted:

- How can Securus justify its rates? The rates are not clearly correlated with either facility size nor with the commission. (See Table 2.) In particular, while it is obvious that commissions drive up costs and the providers argue that smaller facilities are more expensive to serve, some facilities are clearly able to strike better deals than others. For example, compared to Bremer County, Mahaska County has a slightly smaller jail, gets a much larger commission — on a percentage and absolute basis — and has cheaper phone calls.

¹² PPI May 13 Comment, at 10.

¹³ We submitted open records requests to all twelve counties currently served by Securus for their contract and recent commission reports. Five counties (Appanoose County, Clarke County, Crawford County, Mitchell County, and Pocahontas County) failed to respond to both our original request and a follow-up. Four counties (Bremer County, Polk County, Story County, and Webster County) provided both the contract and the commission reports, two counties (Audubon County and Cass County) provided only the contract, and one county (Mahaska) provided only the commission reports.

County name	Cost of a 15 minute inter-LATA phone call	Commission	Average Daily Population
Story County	\$3.15	0%	72
Bremer County	\$14.10	20%	29
Webster County	\$8.40	32%	49
Polk County	\$2.25	85%	943
Mahaska County	\$8.40	42%	21

Table 2. The cost of a Securus 15 minute instate inter-LATA phone call does not appear to be correlated with either the commission or the size of the facility. (We calculated the commission for Webster and Mahaska counties from the commission reports, those counties did not make their contracts available to us.)

- How can Securus justify charging substantially more — on average 2.5 times as much — for in-state calls than for out-of-state calls? See PPI May 13 Comment, at 9
- How can Securus justify charging up to 16 times more for the first minute of a phone call than it charges for subsequent minutes? See *id.* at 9-10.
- Why does the does the percentage of calls that are in-state vs out-of-state vary so much by facility (see Table 3)? Are these records accurate? And are families in some facilities — but not others – becoming aware that they can save considerable funds by getting an out of state phone number and pay just the FCC-capped interstate rates? (And while such rate arbitrage would be common in the state prison context where sentences are often at least a year; many people in jail spend hours, days or weeks behind bars, so common sense says that this kind of consumer behavior shifting would be less likely.)

County name	Cost of a 15 minute inter-LATA phone call	Percent of calls in-state	Percent of calls out-of-state	Commission	Date of Source Commission Report
Story County	\$3.15	93%	7%	0%	March 2019
Bremer County	\$14.10	32%	68%	20%	March 2019
Webster County	\$8.40	63%	37%	32%	March 2019
Polk County	\$2.25	81%	19%	85%	April 2019
Mahaska County	\$8.40	80%	20%	42%	March 2019

Table 3. Nationally, less than 10% of calls from correctional facilities are out-of-state calls. But in some Iowa jails served by Securus, particularly those with very high in-state call rates, much of the call volume is out-of-state in nature. (For Webster County, we calculated the commission rate from the commission reports because the county did not make the contract available to us under the open records law.)

- Is Securus not billing for all calls? In facilities where the rates are the same for both the first and subsequent minutes of a call, a basic analysis of call minutes and call revenue — when combined with our knowledge of the call rates — leads us to conclude that Securus is not billing for all of the calls that are being made. We see this in Securus facilities across the country and depending on the call type, unbilled calls appear to account for 5% or more of total call volume. This raises a few questions:
 - Are these records accurate? Why are these calls not being billed?
 - Is Securus required to provide a certain number of calls at no cost to the consumer and are these calls what we are seeing in the data? And if so — for example, a certain number of free booking calls — why isn't the facility required to pay for that from tax revenue or out of its commission? In other proceedings, we've seen providers claim that they are forced by facilities to bear the cost of some "free" calls, so if the Securus commission reports are actually providing this data, it can be the foundation for a discussion about the size of this cost and which party should be paying for it.
- Has Securus completely eliminated the fixed price \$14.99/\$9.99 single calls? Given the Board's limited resources, we are reluctant to raise issues that may prove to be a dead end or less impactful than just focusing on the worst rates, but given how exploitive the practice is, we think it incumbent on the Board to confirm with Securus that the practice of working with a "third party" vendor to charge as much as \$14.99 for calls regardless of length has in fact ended. *See* PPI May 13 Comment, at 11-12 (We can report that based on our analysis commission reports, Securus does not appear to be doing this call type in the Bremer, Polk, Story, Webster and Mahaska Counties.
- How often, and under what circumstances, does Securus currently offer a different kind of "single call" product where families are led to pay for each call separately and

therefore pay a \$3 deposit fee for each call?¹⁴ Because the commission reports do not separately report deposit transactions, we do not know of a way, using available data, to determine how often families are paying Securus deposit fees. In their June 24 response to Attachment A of the Board’s May 24 Order, Securus helpfully provides a Call Flow Attachment (“CFA”) showing the automated prompts given to incarcerated callers and recipients. Is it Securus’ position that it does not handle any calls originating from Iowa correctional facilities that use a call flow such as the one described in Appendix 1 of the PPI May 13 Comment? If an incarcerated person in Iowa calls someone who does “not have an account or enough funds to complete this call”¹⁵ will Securus use the CFA, or will the recipient receive different automated prompts that directly or indirectly steer customers to pay for each call and its deposit fee individually? If Securus does not use the CFA in this circumstance, Securus should be required to provide other possible call flows used in Iowa calls, and provide data on how often this happens.

B. Reliance Telephone of Grand Forks

On June 7, 2019, Reliance Telephone filed narrative responses to the questions posed in the May 24 Order. Based on an apparent clerical error in the original response, Reliance later filed detailed financial information for each of the 55 Iowa counties it serves. *See In re Reliance Tel. of Grand Forks*, Dkt. No. TF-2019-0026, Response to Attachment A [hereinafter “Reliance Financial Filing”] (Jun. 24, 2019). To begin, PPI commends Reliance for its transparency: the information in the Reliance Financial Filing is extremely helpful in allowing the Board and the public to gain an understanding of Iowa’s jail ICS landscape; in addition, Reliance has surpassed the other carriers in these proceedings in providing useful financial information. That said, notwithstanding the value of the Reliance Financial Filing, the data contained therein are not

¹⁴ For background on single-call products, see PPI May 13 Comment, at 11.

¹⁵ We had hoped to arrange for test calls from within Securus facilities in Iowa, but we have not yet found a way to do so. *But see* PPI May 13 Comment, Appx. 1, at 00:09 (transcript of a Securus automated voice prompt for a call from Fulton County (GA) jail).

evidence upon which to base a determination that Reliance's rates are just and reasonable because the data do not include reliable figures reflecting Reliance's costs.

The Reliance Financial Filing suggests that the carrier loses money in 32 of the 55 counties it serves. Yet there are at least three obvious problems with Reliance's filing. First, the data appear to be based on Reliance's revenue from one month: May 2019. Due to the potential for unexplained anomalous months or predictable seasonal variation, the Board should base its findings on carrier information from a longer period of time (ideally several years, but in no case less than 12 months). Second, Reliance's equipment costs are based on *average* costs even though the board should use actual costs when reviewing rates. Specifically, Reliance's June 7 narrative response indicates that it based its county-by-county revenue analysis on an average equipment cost of \$10,955 (amortized at \$182.58 per month for 60 months). Reliance Resp., at 2-3. This average figure includes the cost for 6.6 telephones, even though the facility data in the Reliance Financial Filing show that 18 counties (56% of Reliance's Iowa contracts) have fewer than 6 phones. In addition, the \$182.58 monthly equipment cost includes \$1,500 for a voicemail server. *Id.* at 3. Yet Reliance's website indicates that 22 of the Iowa counties it serves (40% of its Iowa contracts) do not offer voicemail to callers,¹⁶ and thus presumably do not require a voicemail server. Finally, Reliance's direct costs also inappropriately use average costs. After the amortized cost of equipment, Reliance's largest stated direct cost is the cost of wireline service, but it bases this expense on an average of 2.5 lines per jail. *Id.* at 3. Direct costs also include what appears to be an average of \$25 in free calls, even though the actual cost of these calls would presumably vary significantly based on facility procedures and population.

Based on Reliance's refusal to join its peers in aggressively redacting information, PPI does not doubt Reliance's good faith in its representations to the Board. Nonetheless, when reviewing Reliance's rates, the Board must make decisions based on actual income and expenses, not averages. Reliance may wish to file certain expense data under seal—and

¹⁶ Reliance Telephone, "IA County Jails We Serve," <https://reliancetelephone.com/facilities/listing?state=IA> (accessed Jul. 7, 2019).

confidential treatment of such data may well be appropriate—but it must provide information that allows the Board to gain an accurate picture of actual net revenue.

Card Processing Fees. In its comment, Reliance makes the argument that passing through a credit card fee of 3% on top of charging a \$3 deposit fee is proper because the FCC included a table with a summary of their rules that allows a provider to “pass this charge through to end user directly, with no markup.” Second Report & Order, ¶ 163, tbl. 4, 30 FCC Rcd. at 12846.¹⁷ Yet that section refers to the single call products, not deposit fees. In paragraph 147 of the Second Report and Order, the FCC says: “For fees for single-call and related services and third-party financial transaction fees, we allow providers to pass through only the charges they incur without any additional markup. *We limit automated payment fees to \$3.00, live agent fees to \$5.95, and paper statement fees to \$2.00. Apart from these specific fees, no additional ancillary service charges are allowed.*” *Id.* ¶ 147, 30 FCC Rcd. at 12839 (emphasis added).

Additionally, the PPI currently know of no provider besides Reliance who has chosen to interpret the FCC’s rules this way; and in any event Reliance’s collection of this 3% charge is improper because this 3% ancillary charge is not listed in their tariff. For that reason, the Board should require Reliance to issue refunds to consumers who paid this improper charge.

Moneygram Fees. Reliance also contests our assertion that the company may be receiving income from Moneygram. As we explained in detail in our May comment on pages 13 about Securus, some providers arrange with third party payment processors like WesternUnion and MoneyGram to inflate the fee charged to consumers and in exchange for a “revenue share” or “referral fee” to be quietly paid to the phone provider. To be sure, as we saw in 2013 with NCIC,¹⁸ it is possible for a provider to have an outdated contract with a payment processor by which the processor charges consumers too much money for no reason. Given Reliance’s position on the MoneyGram fees, we assume the company will have no objection to the Iowa

¹⁷ See also, FCC, “Inmate Telephone Service Consumer Guide,” <https://www.fcc.gov/consumers/guides/inmate-telephone-service> (last accessed Jul. 8, 2019). The full language of the order is not in the consumer guide.

¹⁸ See <https://www.prisonpolicy.org/blog/2013/05/28/policies/>

Utility Board following the lead of the Alabama Public Services Commission and requiring documentation for any suspiciously high third party payment fees. *See infra*, § V.

Commissions analysis. While we disagree with many aspects of Reliance's pricing and practices, we have to commend the company for attempting transparency in their filing. In particular, the submitted data allows an analysis of the commissions paid by the company in Iowa. We concluded that Reliance's highest commission is 50% and, on average, the commission is 39%. We conclude that Reliance's commissions cost Iowa families nearly \$20,000 a month, and over \$230,000 a year. On a per minute basis, an end to commission payments would allow Reliance to drop its average per minute rate by \$0.19 from \$0.48 per minute to \$0.29 per minute.

C. Prodigy Solutions

As discussed previously, PPI is unable to formulate a response to Prodigy's filing, because of the carrier's unreasonable withholding of its entire filing. The Board should deny Prodigy's application for confidential treatment, post Prodigy's previous filing on the public docket, and give commenters additional time to respond.

We can however, share some external research that we conducted about Prodigy's contracts. We believe that the average daily population of the ten facilities they serve ranges from 8 to 77 with an average of 33. We also sought to present to the Board information about what the typical commission is for a Prodigy contract, but this investigation raised other questions. We identified two counties that we thought were served by Prodigy and might be typical and made an open records request for the contract. Dallas County ignored our request under the Iowa ORA, and we discovered that Cedar County contracts with Protocall, a company now owned by Consolidated Public Communications. We believe that Consolidated Public Communications and Prodigy are separate but closely related companies — in part because they share the inmatesales.com website — but without more information on the relationship between the companies, we do not think that the Cedar County contract, standing alone, is sufficient evidence upon which the Board could determine that all of Prodigy's rates are unreasonable.

That said, the Cedar County contract’s commission of 50% is clearly consistent with our other findings that commissions are the largest single cost of the calls and is clearly a foundation on which the Board should request commission data from Prodigy.

D. Global Tel*Link and Public Communications Services

We reiterate our earlier objection to GTL’s attempt to disclose “maximum” rates in filed tariffs which may not reflect actual rates paid by customers. PPI May 13 Comments, at 16-17. As we previously explained, the GTL tariffs patently contravene Iowa’s filed-rate doctrine. GTL responded by citing three Board precedents, none of which support GTL’s attempt to disregard the binding nature of a filed tariff. Specifically, GTL claims that it can charge rates lower than those found in its tariffs pursuant to individual case basis (“ICB”) contracts. GTL Resp. at 3. GTL cites three Board precedents in support of this argument, but all citations are to dicta,¹⁹ and GTL provides no binding authority that approves of treating a filed tariff merely as a ceiling on end-user rates. GTL claims that its “contract arrangements with correctional facilities will dictate the rate to be charged” (*id.*)—if that is so, then those arrangements can be incorporated into GTL’s publicly filed tariffs, an approach that would provide rate transparency and prevent customers from having to piece together a patchwork of documents and contracts to determine what charges they are lawfully required to pay.

¹⁹ GTL cites *In re Ralph Van Fossen v. Interstate Power & Light Co.*, Dkt. No. FCU-07-12 (C-07-147), Proposed Decision (Apr. 25, 2008) for the proposition that Iowa Code § 476.5 (Iowa’s statutory filed-rate doctrine) allows regulated utilities to “take individual circumstances into account when deciding what to do with respect to a particular customer.” GTL Resp. at 3. While this language does appear in the *Van Fossen* ruling, it relates to a dispute over a utility’s use of inaccurate estimated bills because staff could not read the customer’s electric meter due to unrestrained dogs on the property—a fact pattern that has no relevance to the present proceedings. GTL next cites *In re Qwest Comm’cns Corp. v. Superior Tel. Coop.*, Dkt. No. FCU-07-2, Order Denying Requests for Reconsideration (Feb. 4, 2011) for the proposition that Iowa law allows ICBs. Once again, GTL would have *Qwest* stand for much more than it actually does. The *Qwest* ruling involved certain telecommunications service offered by local exchange carriers, which the Board ultimately determined was *not* tariffed service. Indeed, the Board’s holding in *Qwest* seems to contravene GTL’s attempts to use the ICB label as a way to escape tariff provisions. *Quest Comm’cns*, 2011 WL 459685, at *28 (“Calling an arrangement ‘ICB’ does not release it from all the provisions of the tariff; if it did, Iowa Code §§ 476.4 and 476.5 would be rendered meaningless because telephone utilities could offer any service without a tariff simply by calling it ‘ICB.’”). Finally, GTL cites *In re Midwest Gas*, Dkt. No. RPU-94-3, Final Decision & Order (May 19, 1995) as supposedly supporting its tariff structure. While the Board did allow some negotiated fees under the tariff in *Midwest Gas*, the negotiated rates applied to firm and interruptible gas transportation customers and a one-time \$250 application fee—charges that are qualitatively distinguishable from the telephone rates at issue in these proceedings.

One positive step taken by GTL is allowing a no-fee payment-by-mail option.²⁰ PPI is concerned, however, that this payment option is not prominently advertised on customer-facing disclosures, marketing materials, or the filed tariff.

V. Conclusion

The Board should collect site-commission data from the providers so that the board can determine the full extent to by which commissions are inflating the cost of calls. We suggest that the Board base its information collection on the annual reporting requirements of the FCC (available at <https://www.fcc.gov/general/ics-data-collections>), perhaps without the questions about interstate calling. The FCC's definitions of different types of commissions is sufficient; and the companies are already familiar with the FCC's template, so the burden on providers would be minimal if the Board based its information collection on the FCC's.

To the degree that the Board is concerned about omissions from the tariffs, we suggest that the board can rein in — if not eliminate — several categories of consumer abuse with safe harbor rates of \$0.21 prepaid/\$0.25 collect (*see supra*, § II.C), buttressed by the following simple disclosure requirements:

- **Payment companies:** All providers should be required to list in their tariffs the third-party payment companies like WesternUnion, MoneyGram and PayNearMe that they accept payments from, along with the amounts charged by those third party companies to make payments to the provider. If the fee charged by any of those third-party payment companies is more than \$5.95, the provider should be required to provide a copy of the provider's contract with the third-party payment transfer service and shall explain in writing and signed by the provider's owner, president, or chief executive officer, why it is unable to arrange for the payment transfer services to charge fees that do not exceed \$5.95.²¹

²⁰ See ConnectNetwork & GTL, Mail, <https://web.connectnetwork.com/payment-options/#Mail> (accessed Jul. 7, 2019).

²¹ This language is inspired by the Alabama Public Services Commission. See *In re Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service*, Dkt. 15957, Further Order Adopting Revised Inmate Phone Service Rules, ¶ 8.26 (Ala. Pub. Serv. Comm'n, Dec. 9, 2014, updated Jun. 12,

- **Unclaimed funds/refunds:** Because only some providers describe their refund policies in their tariffs; because those that do, do so with varying levels of detail; and because these policies can be a considerable source of unearned profit for less reputable providers, we suggest that the Board take at least one of two strategies:
 1. Require providers to describe their refund and unclaimed fund policies in their tariffs. Providers should describe how unclaimed funds are handled, including any fees charged for inactive accounts, whether they ever declare balances expired, and whether the provider turns over any unused funds to the state unclaimed funds program as required by law.
 2. Add to any annual reporting requirement that providers report the total dollar value and the number of accounts transferred that year to the state unclaimed asset program. (Any provider that reports zero transferred assets or whose reported numbers are obviously out of proportion to their share of the market would instantly signal to the state Treasurer that an investigation may be warranted.)

With respect to the rates and practices of specific carriers, PPI would urge the Board to take the following actions.

A. Securus

The Board should not approve Securus' tariff until the company:

2. Files a new tariff that: (i) does not contain first-minute rates that are higher than subsequent minutes, (ii) does not charge more for intrastate calls than for interstate calls, and (iii) does not contain rate locations which do not exist.
3. Confirms that it does not contract with any third parties for any call types not listed in the tariff, including fixed price \$9.99 or \$14.99 calls which Securus previously admitted²² charging in Iowa.

2015), available at

<http://www.psc.alabama.gov/Telecom/Engineering/documents/Dec%202014%20Order%2015957%20updated%20t%20hru%206-12-2015.pdf>

²² *In re Rulemaking Regarding Inmate Calling Rate Caps*, IUB Dkt. No. RMU-2017-0004, Hrg. Transcript (Jul. 10, 2018), at 39:15-19 (“We are currently in the process of phasing that out. Basically, we expect to be using the

4. Provides the call flow script for any phone calls where the recipient does not have an account or enough funds to complete the call and agrees to file quarterly reports detailing the percentage of calls in each Iowa facility that are made through their “single call” products like Instant Pay, PayNow, or Text2Connect where by consumers pay a credit card (or text message) charge plus the cost of the call for each call.

5. Files a sworn affidavit certifying that it does not receive any consideration from WesternUnion and MoneyGram and provides a copy of its contracts with those companies.

B. Reliance

The Board should not approve Reliance’s tariff until the company:

1. Provides evidence that adequately explains the carrier’s dramatically higher intrastate rates (as compared to interstate rates).

2. Files a new tariff that accurately describes the company’s ancillary fee charges and/or brings their ancillary fees into alignment with applicable FCC caps.

3. Files a sworn affidavit certifying that it does not receive any consideration from MoneyGram and that it has sought to lower the price charged by Moneygram to Reliance consumers.

PPI further suggests that the Board should enter an order requiring Reliance to refund the improper 3.3% “credit card processing fee” to all Iowa consumers who have paid that charge.

C. Prodigy

PPI respectfully suggests that the Board should not approve Prodigy’s tariff until the company has produced evidence sufficient to satisfy its burden of justifying its high rates of \$0.31/minute.

Securus AdvanceConnect single call probably by the time the Board makes a decision with regard to this rule.”). We have seen some evidence of Securus phasing out these \$14.99 3CI phone calls; but also seen recent evidence of these calls continuing; so Securus should be required to clarify.

D. GTL

PPI contends that GTL's tariffs are facially defective because they state that actual rates may be varied by contract, in violation of Iowa Code § 476.5. For this reason, the Board should not approve GTL's tariffs until they are amended to reflect the actual rates charged by the carrier.

Dated: July 8, 2019

Respectfully submitted,

PRISON POLICY INITIATIVE, INC.

/s/ Peter Wagner

By Peter Wagner, Executive Director
69 Garfield Ave., 1st Floor
Easthampton, MA 01027
(413) 527-0845
pwagner@prisonpolicy.org

Appendix 1. Iowa counties by apparent provider. (Providers identified by our national survey in November 2018 and our supplemental research in June 2019.)

ICS Provider	Facilities Contracting with ICS Provider
Combined Public Communications or Prodigy (Both companies list their counties on the inmatesales.com website, so we cannot tell them apart)	Benton County, Cedar County, Cerro Gordo County, Dallas County, Des Moines, Iowa County, Louisa County, Madison County, Tama County, Wapello County
Encartele	Floyd County, Jackson County, Marshall County
GTL	Black Hawk County, Iowa DHS-Eldora Training School for Boys, Scott County
ICSolutions	Dubuque County, Jasper County, Muscatine County
Lattice	Davis County, Johnson County
NCIC	Hardin County Jail, Iowa Work Release, Lee County, Linn County, Union County, Woodbury County
Reliance	Adair County, Adams County, Allamakee County, Boone County, Buchanan County, Buena Vista County, Butler County, Carroll County, Cherokee County, Chickasaw County, Clay County, Clayton County, Clinton County, Decatur County, Delaware County, Dickinson County, Emmet County, Fayette County Correctional Center, Fremont County, Greene County, Grundy County, Guthrie County, Hamilton County, Harrison County, Henry County, Howard County, Humboldt County, Ida County, Jefferson County, Jones County, Keokuk County, Kossuth County, Lyon County, Mills County, Monona County, Monroe County, Montgomery County, O'Brien County, Osceola County, Page County, Palo Alto County, Plymouth County, Poweshiek County, Ringgold County, Sac County, Shelby County, Sioux County, Taylor County, Van Buren County, Washington County, Wayne County, Winnebago County, Winneshiek County, Worth County, Wright County
Securus	Appanoose County, Audubon County, Bremer County, Cass County, Clarke County, Crawford County, Mahaska County, Mitchell County, Pocahontas County, Polk County, Story County, Webster County
Turnkey	Marion County, Pottawattamie County
Not served (because these counties do not have a jail)	Calhoun County, Franklin County, Hancock County, Lucas County, Warren County