

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD

IN RE:

ENCARTELE, INC.

DOCKET NO. TF-2019-0270

**RESISTANCE TO APPLICATION FOR CONFIDENTIAL TREATMENT**

For the reasons stated below, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, resists the application for confidential treatment filed by Encartele, Inc, (Encartele) on July 21, 2020.<sup>1</sup>

1. The information for which Encartele requests confidential treatment is, primarily, the name and address of the Iowa correctional facilities at which Encartele provides inmate calling services.<sup>2</sup>

2. All filings before the Iowa Utilities Board (Board) are subject to the requirements of the Iowa Open Records Law, Iowa Code chapter 22. The purpose of the Open Records Law is “to open the doors of government to public scrutiny [and] to prevent government from secreting its decision-making activities from the public, on whose behalf it is its duty to act.” *Iowa Film Prod. Servs. v. Iowa Dep’t of Econ. Dev.*, 818 N.W.2d 207, 217-18 (Iowa 2012). The Act establishes a presumption of openness and disclosure.” *Id.*

3. Encartele offers no appropriate justification for why the identity of the correctional facilities with which an inmate calling service provider has a contract should be held

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<sup>1</sup> OCA does not find an actual application for confidential treatment. However, the information referenced in paragraph 1 of this resistance is marked confidential and was filed using confidential processes.

<sup>2</sup> Encartele also seeks confidential treatment for information concerning the average daily population at the correctional facilities at which Encartele provides inmate calling services. Although OCA questions whether information concerning average daily population meets criteria for confidential treatment, OCA does not at this time resist treating that information as confidential.

in confidence. This information is not proprietary to or a trade secret of the inmate calling service provider, and no sufficient reason is given why public disclosure of this information would give advantage to competitors. The allegations of other inmate calling service providers in other dockets that “maintaining confidentiality of such information maximizes [the inmate calling service provider’s] ability to operate at the lowest reasonable cost” is neither explained nor plausible. The correctional facilities are themselves public bodies subject to the Open Records Law. The public identification of the inmate calling service provider at each of the correctional facilities across the state would serve the public purpose of promoting transparency in the workings of government. Indeed, as OCA has elsewhere observed,<sup>3</sup> the Board should consider requiring the inmate calling service providers on an annual basis to identify the correctional facilities at which they have contracts, because doing so would help the Board, OCA and other stakeholders including the public maintain an awareness of the status of the contracts. This reporting could easily be made a part of the annual report for inmate calling service providers.<sup>4</sup>

4. The correctional facilities do not seek confidential treatment for the identity of their inmate calling service providers. No correctional facility has joined Encartele’s application or has sought confidential treatment for this information in any of the Board’s inmate calling service tariff, inquiry or rulemaking dockets.

5. The identity of a correctional facility’s inmate calling service provider is properly a matter of public record.

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<sup>3</sup> *In re Inquiry into Regulatory Requirements for Alternative Operator Services Companies*, Docket No. NOI-2019-0001, Reply Comments filed Oct. 4, 2019, at 5.

<sup>4</sup> A public purpose is also served by identifying the correctional facilities in the public tariffs filed by those inmate calling service providers which (unlike IC Solutions) have rates that vary from one correctional facility to another.

WHEREFORE, the application for confidential treatment should be denied.

Respectfully submitted,

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OFFICE OF CONSUMER ADVOCATE