

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:	
ENCARTELE, INC.	DOCKET NO. TF-2019-0270

ORDER ADDRESSING REQUEST FOR CONFIDENTIALITY

PROCEDURAL BACKGROUND

On July 21, 2020, Encartele, Inc. (Encartele), an inmate calling service (ICS) provider, filed a revised tariff as required by a Board order issued May 21, 2020. The revised tariff included a redacted list of correctional facilities where Encartele provides ICS. Encartele filed the revised tariff in Docket No. TF-2019-0270.

In the May 21, 2020 order, the Board stated Encartele could file the names and locations as confidential. Encartele's July 21, 2020 response included a statement saying, "Please see the required information contained on Original Page 20, under 3.4, Contracts for Service as an itemized representation of correctional facilities served by Encartele. This required material is additionally filed as confidential material with this Response per the Board's Order."

On August 4, 2020, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed a resistance to the July 21, 2020 request for confidential treatment. On September 2, 2020, OCA filed additional information in support of the resistance.

DOCKET NO. TF-2019-0270

PAGE 2

CONFIDENTIAL TREATMENT DISCUSSION

A. OCA's Position

In its August 4, 2020 resistance, OCA states the filings with the Board and the correctional facilities are subject to the Iowa Open Records Law, Iowa Code chapter 22, which “establishes a presumption of openness and disclosure.” Citing *Iowa Film Prod. Servs. v. Iowa Dep’t of Econ. Dev.*, 818 N.W.2d 207, 217-18 (Iowa 2012). OCA also states that the ICS providers do not provide “appropriate justification” as to why the names and addresses of correctional facilities should be held as confidential, as it is not a trade secret and knowing this information would not give advantage to competitors. Additionally, OCA states the correctional facilities themselves do not seek confidential treatment, no correctional facilities joined the application for confidential treatment, and various facilities name their provider on the correctional facility’s website. OCA further states, “The identity of a correctional facility’s inmate calling service provider is properly a matter of public record.”

In its September 2, 2020 filing, OCA provided additional information to support the resistance to applications for confidential treatment. OCA attached a Federal Communications Commission (FCC) order, WC Docket No. 12-375, that denies requests of inmate calling service providers confidential treatment for facility names. OCA summarizes the FCC order by stating that “much, if not all, of the information regarding . . . facility names . . . is publicly available.” Examples include ICS providers putting the facility names on their website and facilities naming their providers on the facilities’ website. OCA further summarizes the FCC order by stating “there is a strong public interest in making providers’ rates and charges at the facilities each serve

DOCKET NO. TF-2019-0270

PAGE 3

publicly available.” Lastly, OCA summarizes the FCC order by stating, “The inmate calling service providers that have requested that the Commission treat facility names . . . as confidential have provided no meaningful justification as to why disclosure would be detrimental to them.”

B. Board Discussion

With regard to the request for confidential treatment of the names and locations of the correctional facilities where Encartele provides ICS, the Board has reconsidered its decisions allowing for this information to be held as confidential due to several factors, including but not limited to the additional support filed by OCA regarding the FCC treatment of the names and locations. This information indicates the names and locations where ICS companies provide service are already public information.

In addition, other ICS companies include in their tariffs the names and locations of the correctional facilities where that company provides service. There appears to be no reason for some companies to make the information public while others are allowed to keep the information confidential. Upon review of the issue, the Board finds that there is a public interest in knowing where a company provides ICS, similar to knowing the rates charged for inmate calling.

Pursuant to 199 IAC 1.9(8), the Board will allow Encartele 14 days to seek appeal of this decision in district court. If an appeal is not sought, Encartele will be required to file in its tariff the names and locations of the correctional facilities where Encartele provides ICS. If Encartele discontinues service to a correctional facility, or provides service to a different correctional facility, then Encartele will be required to file a revised tariff with that information.

DOCKET NO. TF-2019-0270

PAGE 4

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The request for confidential treatment filed by Encartele, Inc., in Docket No. TF-2019-0270, on July 21, 2020, is denied.

2. The information for which confidential treatment is denied in Ordering Clause 1 shall be held as confidential for 14 days to allow for an appeal to the district court.

UTILITIES BOARD

Geri Huser Date: 2020.11.10
12:41:25 -06'00'

ATTEST:

Anna Hyatt Date: 2020.11.13
09:34:31 -06'00'

Richard W. Lozier, Date: 2020.11.10
Jr. 13:15:59 -06'00'

Dated at Des Moines, Iowa, this 13th day of November, 2020.