

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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

ORDER REQUIRING FILING OF REVISIONS TO REVISED TARIFF

PROCEDURAL BACKGROUND

On May 21, 2020, the Utilities Board (Board) issued an order requiring Encartele, Inc. (Encartele), to file revisions to its proposed tariff. On July 21, 2020, Encartele filed the required revised tariff and an application for confidential treatment of the names and locations of the correctional facilities where Encartele provides inmate calling service. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Prison Policy Initiative, Inc. (PPI); Global Tel*Link Corporation; and Securus Technologies, Inc., are parties to this docket.

On August 4, 2020, OCA filed an objection to the application for confidential treatment. OCA also filed comments addressing the July 21, 2020 revised tariff.

On August 6, 2020, the Board issued an order scheduling a technical conference to review the revised tariff. On September 10, 2020, the technical conference was held as scheduled. On September 25, 2020, the Board issued an order requiring further revisions to the tariff based on the information provided in the September 10, 2020 technical conference.

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On October 9, 2020, Encartele filed the required further revisions to its tariff. On October 19, 2020, OCA filed comments stating it had no objection to the revised proposed tariff. On October 20, 2020, PPI filed comments regarding the proposed tariff. On October 28, 2020, Encartele filed a response to PPI's comments. On November 13, 2020, PPI filed supplemental comments regarding Encartele's proposed revised tariff. Also on November 13, 2020, the Board issued an order addressing Encartele's request for confidential treatment.

ANALYSIS OF OCTOBER 9, 2020 REVISED TARIFF

Based upon a review of the October 9, 2020 revised tariff, the Board is issuing this order, requiring further revisions to the revised tariff. In this order, the Board is only addressing those provisions where the Board is requiring additional changes or where PPI commented.

A. Original Pages 11 and 22. In its November 13, 2020 supplemental comments, PPI asserts that Encartele charges a \$2.99 processing fee and an additional fee of 5% of the amount of the purchase for deposits to an inmate calling service account. PPI states that this type of layered fee structure likely violates federal law and Encartele appears to be imposing fees that the Board has not authorized.

The Board has reviewed the issue regarding ancillary fees and whether an alternative operator service (AOS) provider can charge both a \$3 ancillary fee and a corresponding third-party transaction fee. The Board has determined that an AOS provider can charge both the \$3 fee for specified ancillary services and a corresponding credit card processing fee, or other transaction fee, as long as those

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fees are provided for in the tariff and are fees charged by a third-party company that are passed through without markup. In addition to the approved ancillary service fees set out on Original Page 22, Encartele will be required to include the following language in its tariff: “Third-party transaction fees, including credit card processing fees, shall be passed through to customers with no markup. The Company receives no payment from a third-party vendor’s transaction fees.” This statement means that Encartele is prohibited from charging any additional fee for deposits to an inmate calling service account.

The “Calling Account Fees” listed in section 4.3.2 are the same as the ancillary fees established by the FCC, and the Board has determined these ancillary fees are reasonable for intrastate inmate calling.

B. Original Page 11. Section 2.6.2 of the revised tariff states that “Unused funds are returned to the Account Holder when the Inmate is released or when the Account Funder closes the Calling Account. Encartele returns the funds to the Account Funder via the original method of funding.” The provision does not include an explicit statement regarding how an inmate or account holder is informed when and how to obtain refunds. It appears from the provision that there is not an expiration date for the account, so an account holder may request a refund regardless of the length of time since the last call. Encartele will be required to file additional language explaining when and how an account holder may request a refund.

C. Original Page 20. PPI asserts that the proposed rate of \$0.25 per minute is above the \$0.21 rate cap prescribed by the Federal Communications Commission (FCC) for prepaid interstate calls. Encartele asserts that the rate of \$0.25 per minute

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with no additional ancillary charge cannot be excessive when the FCC allows a per-minute rate of \$0.25 for collect calls.

The Board has determined that a rate of \$0.25 per minute for prepaid calls is consistent with the rates approved by the FCC and is reasonable. The Board will not require Encartele to revise its prepaid calling rate as suggested by PPI.

D. On November 13, 2020, the Board issued an order in which the Board found that the names and locations where Encartele provides inmate calling service is public information and denied the request for confidential treatment. Encartele will be required to add a tariff sheet that lists the names and locations of where it provides inmate calling service. A revised tariff sheet will be required when Encartele adds a correctional facility or when it no longer provides service to a correctional facility.

E. Encartele will be required to ensure that it has filed an updated registration, has submitted the requested Dual Party Relay Service reports and payments, and has paid all outstanding invoices.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. Encartele, Inc., shall file within 30 days of the date of this order revisions to the October 9, 2020 revised tariff that are consistent with this order.
2. Encartele, Inc., shall include the following revisions in the revised tariff:
 - a. In section 2.6.2 include the following language: "Third-party transaction fees, including credit card processing fees, shall be passed through to

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customers with no markup. The company receives no payment from a third-party vendor's transaction fees."

- b. Include explicit language stating how an account holder or inmate is notified of when and how a refund can be requested.
 - c. Add a tariff sheet that includes the names and locations of correctional facilities where the company provides inmate calling service.
3. Responses to the revisions required in Ordering Clauses 1 and 2 shall be filed within 15 days of the date those revisions are filed.
4. Encartele, Inc., shall confirm that its annual reports, registration, and Dual Party Relay Service assessments and payments are up to date and that it has paid all outstanding invoices.

UTILITIES BOARD

Geri Huser Date: 2020.12.11
12:10:27 -06'00'

ATTEST:

Anna Hyatt Date: 2020.12.11
13:30:30 -06'00'

Richard W. Lozier, Jr. Date: 2020.12.11
12:03:49 -06'00'

Dated at Des Moines, Iowa, this 11th day of December, 2020.