

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE:

ENCARTELE, INC.

DOCKET NO. TF-2019-0270

**THE PRISON POLICY INITIATIVE'S OBJECTION TO PROPOSED TARIFF,
REQUEST FOR DOCKETING, AND PETITION FOR INTERVENTION**

The Prison Policy Initiative, Inc. ("PPI") submits the following objection and request for docketing pursuant to 199 IAC 26.5(3), and petitions the Iowa Utilities Board ("IUB") for an order permitting it to intervene in any related proceedings pursuant to 199 IAC 7.13(1). In support thereof, PPI states as follows:

1. The IUB has previously allowed PPI to intervene in Docket Nos. TF-2019-0026, TF-2019-0032, TF-2019-0033, TF-2019-0035, TF-2019-0039, and TF-2019-0040. PPI's filings in the aforementioned proceedings explain in detail the organization's interest in participating in the IUB's proceedings regarding inmate calling service ("ICS"), and such explanations are incorporated herein by this reference.

2. On August 22, 2019, Encartele, Inc. filed a Motion for Reconsideration (the "Motion") asking the IUB to vacate its July 18, 2019 order cancelling Encartele's alternative operator service ("AOS") tariff. Attachment B to the Motion is a proposed tariff that would apparently supersede Encartele's current Iowa tariff.

3. While PPI does not object to Encartele's request for relief from the IUB's July 18 order, it does object to the rates in the proposed tariff. Encartele's filing reveals per-minute rates ranging from 30¢ to 90¢ per minute. Motion, Attch. C at §§ 4.3 – 4.4.

4. As a specific example of Encartele's unreasonable practices, the proposed tariff submitted with the Motion shows rates for the Marshall County jail that are the highest ICS consumer prices in the state for collect calls, and the seventh highest for debit calls. Motion, Attch. A at 2. Under its current contract, Encartele reports charging 55¢ per minute for debit

calls. *Id.* InterLATA and IntraLATA collect calls are 69¢ per minute plus a \$3.95 surcharge.

Id. Thus, for a 15-minute in-state collect call, Encartel charges an unconscionable \$13.61 (equaling an effective per-minute rate of 91¢).

5. Encartele is unable to justify these high rates, saying only that it “set the listed rates after determining the lowest rate at which the company could provide its services to the end user. Encartele works with each correctional facility to ensure the rates are consistent and never exorbitant. Communications with family has a large impact on the rehabilitation process.” *Id.* at 4. Despite the prominent role that site commissions play in driving up ICS rates, Encartele provides no information about the extent to which it pays commissions. Small facility size is clearly not a predictor of high costs, because Marshall County is by far both the largest jail served by Encartele, yet the rates for calls placed from Marshall County are higher than any other rates levied by Encartele (or any other provider in Iowa).

6. Moreover, despite Encartele’s representation that “There are no ancillary charges as all calls are either charged on a per minute or flat rate” (Motion, Attch. A at 5), its proposed tariff includes “service charges” and “operator charges” ranging from \$1.75 to \$3.95 per call. Motion, Attch. C. at § 4.3.1.

7. Finally, based on Encartele’s answers to Attachment A, it appears that all Institutional Automated Collect Operator Service Rates and Charges - Plan A (call surcharges of \$1.75-\$2.90 plus \$0-\$0.30/minute) and Institutional Collect Intrastate rates B (\$0.30), F (\$0.50), H (\$0.60), I (\$0.70), J (\$0.75), K (\$0.80), L (\$0.85) and M (\$0.90) do not apply to any facility served by Encartel and should therefore be stricken from the tariff.

Request for Docketing

8. Iowa Code § 476.91(2) requires that all intrastate telecommunications services provided by an AOS company to end-user customers must be rendered pursuant to tariffs approved by the IUB.

9. Iowa Code § 476.6(4) provides that after a utility files an application for a new or changed rate, the IUB, prior to the expiration of 30 days, shall docket the case as a formal

proceeding and set a schedule unless the new or changed rate is approved by the IUB. *See also Equal Access Corp. v. Utilities Board*, 510 N.W.2d 147, 150 (Iowa 1993) (ICA § 476.91 grants IUB authority to approve AOS tariffs and otherwise set rates charged by such companies).

10. A carrier that files a tariff must charge rates that are reasonable and just. ICA § 476.8(1). The burden of proof is on the carrier to prove that its rates are reasonable and that “no unreasonable profit is made.” ICA §§ 476.4(1), 476.8(2).

11. For the reasons stated above, the rates in Encartele’s proposed tariff appear to be unjust and unreasonably high.

Petition for Intervention

12. As explained previously, the IUB has previously granted PPI’s petitions to intervene in several other tariff proceedings concerning ICS rates. Because Encartele has submitted a tariff with particularly high rates, PPI contends that intervention in the above-captioned proceeding is justified in the interest of consistency.

For the reasons set forth above, PPI respectfully petitions the IUB to: (1) docket Encartele’s proposed tariff for further investigation, and (2) enter an order permitting PPI’s intervention in any further proceedings concerning such tariff.

Dated: August 30, 2019

Respectfully submitted,

PRISON POLICY INITIATIVE, INC.

/s/ Peter Wagner

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