

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

ENCARTELE, INC.

DOCKET NO. TF-2019-0270

ORDER REQUIRING FILING OF REVISED TARIFF

PROCEDURAL BACKGROUND

On July 18, 2019, the Utilities Board (Board) issued an order canceling the authority of certain telecommunications service providers that had previously offered alternative operator services (AOS) in Iowa. The authority to provide AOS was canceled because the companies did not file proposed tariffs as required by Board orders issued January 2, March 14, and June 14, 2019. Encartele, Inc. (Encartele), was one of the companies that had not filed a proposed tariff to provide AOS.

On August 22, 2019, in Docket No. REG-3827, Encartele filed for reconsideration of the Board's July 18, 2019 order canceling Encartele's authority to provide AOS in Iowa. Encartele also filed a proposed tariff and responses to the June 14, 2019 Board order requesting additional information from AOS companies. On August 28, 2019, Docket No. TF-2019-0270 was opened to consider Encartele's proposed tariff.

On August 30, 2019, Prison Policy Initiative, Inc. (PPI), filed an objection to the rates in the proposed tariff, a request that the proposed tariff be docketed for further review, and a request to intervene in Docket No. TF-2019-0270. On September 5, 2019, the Office of Consumer Advocate (OCA), a division of the Iowa Department of

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Justice, filed an objection to Encartele's proposed tariff. On September 11, 2019, Encartele filed a new registration in Docket No. REG-3827.

On September 20, 2019, the Board issued an order finding that the request for reconsideration filed by Encartele was moot since Encartele had been providing AOS at certain correctional facilities and had filed the proposed tariff and information requested in the June 14, 2019 order. In the September 20, 2019 order, the Board docketed Encartele's proposed tariff and granted intervention to PPI.

On October 2, 2019, Encartele filed revisions to the proposed tariff. On October 7, 2019, OCA filed comments and an objection to the revised proposed tariff. On October 22, 2019, PPI filed objections to the revised proposed tariff. On October 31, 2019, the Board issued an order suspending the revised proposed tariff.

ANALYSIS OF ENCARTELE'S PROPOSED TARIFF

The Board has reviewed the proposed tariff filed by Encartele and the responses filed by Encartele to the Board's June 14, 2019 order. The Board's review is to determine whether the rates and services proposed to be offered by Encartele are just and reasonable. The Board's authority over AOS companies and AOS is pursuant to Iowa Code § 476.91, which states as follows:

476.91(2). *Jurisdiction.* Notwithstanding any finding by the board that a service or facility is subject to competition and should be deregulated pursuant to section 476.1, all intrastate telecommunications services provided by alternative operator services companies to end-user customers, using other than ordinary residence or business telephones, are subject to the jurisdiction of the board and shall be rendered pursuant to tariffs approved by the board.

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Alternative operator services companies shall be subject to all requirements and sanctions provided in this chapter. Contracting entities shall be subject to the requirements of any board regulations concerning telecommunications services provided by alternative operator services companies.

476.91(3) *Requirements.* The board shall adopt and enforce requirements for the provision of services by alternative operator services companies and contracting entities.

A. History of Encartele's Service

The most recent tariff on file for Encartele is TF-2013-0364. The first tariff on file for Encartele was approved in Docket No. TF-2006-0239. The Board's records show that Encartele registered to provide AOS in Iowa in 2008 and its current registration was filed September 11, 2019. Encartele will be required to ensure that its annual reports, Dual Party Relay Service assessment, and invoice payments are up to date. Board rules at 199 IAC 17.9 require AOS companies to pay DPRS assessments and file the number of telecommunications service telephone numbers with the payment. Pursuant to Iowa Code § 476C.7, the assessments are three cents per month for each revenue-producing telephone number.

B. Review of Encartele's Tariff

The Board is reviewing the October 2, 2019 revised proposed tariff, Iowa Tariff No. 3, and references to original page numbers are to that document. On Original Page 10, Section 2.5.1, the proposed tariff sets out provisions about deposits and advances. The proposed tariff states that Encartele does not usually require a deposit for inmate calling services, but that it can require a deposit of estimated two months of charges

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when the customer's credit history is unacceptable or unknown. The proposed tariff provides that deposits will follow Board rules. For advances, the proposed tariff states that advances can be required for billed charges that exceed a maximum amount predetermined by Encartele for the customer. The advanced payment is one month of estimated charges.

It is not clear how Encartele determines when a deposit or advance is required, what deposit rules Encartele is following, or how deposits and advances work with prepaid cards and accounts. Encartele will be required to explain how it determines whether a deposit is requested, what Board deposit rules it is applying, and how deposits and advances work with prepaid cards.

Original Page No. 13, Section 2.8.2, includes the Board's contact information. The contact information needs to be revised. The Board's local number is 515-725-7300 and the email address for customer contact is customer@iub.iowa.gov.

1. Correctional Facilities

The names and locations of the correctional facilities served by Encartele are not included in the proposed tariff. Encartele has requested confidential treatment of this information, as well as for the approximate number of inmates in each correctional facility. The names and locations of the correctional facilities where Encartele provides service will need to be included in Encartele's tariff. Encartele may file the names and locations as confidential.

2. Blocking

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Subrule 22.6(2) provides that AOS companies shall not block the completion of calls which allow the caller to reach a long distance telecommunications service provider different from the AOS company. The subrule also applies to the entity contracting for AOS. Encartele's proposed tariff does not contain call-blocking provisions. Call-blocking provisions consistent with subrule 22.6(2) are required to be included in an AOS tariff. Encartele will be required to include call-blocking provisions in its tariff. If a contact with a correctional facility requires different blocking provisions, Encartele will be required to include a statement of noncompliance in its tariff pursuant to 199 IAC 22.6(7) and file a copy of the contract.

3. Posting and Dialing Directions

Board rules at 199 IAC 22.6(3) require posting of certain information, including directions for dialing, at or near each telephone in a correctional facility. The requirements are as follows:

22.6(3) Posting.

a. Contracting entities must post on or in close proximity to all telephones served by an AOS company the following information:

- (1) The name and address of the AOS company;
- (2) A customer service number for receipt of further service and billing information; and

(3) Dialing directions to the AOS operator for specific rate information.

b. Contracts between AOS companies and contracting entities shall contain provisions for posting the information. The AOS companies also are responsible for the form of the posting and shall make reasonable efforts to ensure implementation, both initially and on an updated basis.

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Encartele's proposed tariff does not have a provision regarding posting or dialing instructions. Encartele will be required to include in its tariff provisions that comply with 199 IAC 22.6(3). If Encartele contracts with a correctional facility that requires different posting and dialing information requirements, Encartele shall include in its tariff a statement of noncompliance pursuant to 199 IAC 22.6(7) and file a copy of the contract with the different requirements.

4. Billing Inmates

Subrule 199 IAC 22.6(5) establishes requirements for billing inmates as follows:

22.6(5) Billing. All AOS company bills to end-user customers shall comply with the following requirements:

- a. All calls, except those billed to commercial credit cards, shall be itemized and identified separately on the bill. All calls will be rated solely from the end-user customer's point of origin to point of termination.
- b. All bills, except those for calls billed to commercial credit cards, shall be rendered within 60 days of the provision of the service.
- c. All charges for the use of a telephone instrument shall be shown separately for each call, except for calls billed to a commercial credit card.

Encartele's proposed tariff does not include provisions that are in compliance with this subrule. Encartele will be required to include in its tariff billing requirements that are consistent with subrule 22.6(5) or a statement of noncompliance and the reason for the noncompliance. If noncompliance is based upon a correctional facility, Encartele is required to file a copy of the contract.

5. Service Offerings

Original Page 19, Section 3.1, states that service is offered to inmates in correctional facilities for outward-bound calls only, and collect calls may be billed to

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residential or business lines. Section 3.2.1 states that long distance charges are based on actual usage of Encartele's network. Encartele will be required to explain what long distance charges the inmate will be required to pay.

Original Page 20, Section 3.3, describes institutional automated collect operator service and states that the service is provided to inmates in correctional facilities. The section states that service may be limited by administrators in the correctional facility. Calls are billed to the called party and a "per-call service charge applies to each call." Encartele will be required to explain what per-call service charge is applied.

Original Page 21, Section 3.4, describes Encartele's prepaid institutional calling service. Section 3.4.1 states that institutional prepaid service is an alternative to collect calling service and the section lists several different circumstances that the prepaid service is to address. Encartele will be required to explain whether an inmate that has some other circumstance than those listed will be able to use Encartele's prepaid service.

Original Page 22, Section 3.4.1, states that prepaid institutional services are refundable upon request after the release of the inmate from the correctional facility. However, the unused balance expires 12 months after the date of the last call and no refunds will be issued after the expiration date. Encartele will be required to explain why there is a 12-month limit on refunds of unused balances.

Original Page 23, Section 4.1, states that each call is charged individually and customers are billed based upon the use of Encartele's long distance service. There

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are not fixed monthly charges. Encartele will be required to explain what long distance charges are required to be paid by a customer.

6. Rates and Charges

Original Page No. 24, Section 4.3, establishes the rates for collect-only service. Section 4.3.1 sets the rate at \$0.31 per minute for all collect-only service. Original Page No. 25, Section 4.4, establishes a rate of \$0.31 per minute for prepaid debit card services. In its response to the June 14, 2019 order, Encartele states that the \$0.31 per-minute rate is the lowest rate at which the company can provide inmate calling services. Encartele will be required to provide additional justification for the \$0.31 rates since it is above the rate set by the Federal Communications Commission for interstate calls.

7. Ancillary Charges

Encartele's proposed tariff does not include any ancillary charges. In its response to the Board's June 14, 2019 order, Encartele states that it has no ancillary charges as all calls are charged either a per-minute or flat rate. Encartele will be required to explain how it charges for:

- a. Automated Payment Fees – Credit Card payment, debit card payment, and bill processing fees, including fees for payments made by interactive voice response (IVR), web, or kiosk (where available).
- b. Live Agent Fee – A fee associated with the optional use of a live operator to complete inmate calling services transactions.

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- c. Paper Bill/Statement Fee – Fees associated with providing customers of inmate calling services an optional paper billing statement.
8. Charging the rates approved by the Board

The rates charged for AOS at correctional facilities are required to be the rates in the tariff approved by the Board. Charging more or less than the approved rates, or charging additional fees, is not allowed. In response to the June 14, 2019 order, Encartele states that it does not charge ancillary fees; however, the text on the video suggests that a processing fee will be charged depending on how funds are added to a prepaid account and a convenience fee of \$3.00 and a credit card processing fee of \$0.90 is charged. Encartele will be required to explain the fees and charges described in the video and why those fees and charges are not in the proposed tariff.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The proposed tariff filed by Encartele, Inc., on August 22, 2019, and revised on October 2, 2019, is rejected.
2. Encartele, Inc., shall file within 30 days of the date of this order a revised tariff that is consistent with this order. The revised tariff shall include the following information:
 - a. The name and location of any correctional facilities where inmate calling services are provided.

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- b. Blocking provisions consistent with 199 IAC 22.6(2) or a statement of noncompliance and the contract that requires the noncompliance.
- c. Posting requirements consistent with 199 IAC 22.6(3) or a statement of noncompliance and the contract that requires the noncompliance.
- d. Billing requirements that are consistent with subrule 22.6(5) or a statement of noncompliance and the reason for the noncompliance. If noncompliance is required by a contract with a correctional facility, also file a copy of the contract.
- e. Updated contact information for the Utilities Board.

3. Encartele, Inc., shall provide an explanation of the following proposed tariff provisions:

- a. How it determines whether a deposit is requested, what Board deposit rules it is applying, and how deposits and advances are used for prepaid accounts.
- b. What per-call service charge is applied to calls made by inmates.
- c. What long distance charges are charged to an inmate.
- d. Why there is a 12-month limit on refunds for unused prepaid balances.
- e. Whether an inmate that has some other circumstance than those listed in the proposed tariff will be able to use Encartele's prepaid service.
- f. How it charges for customers using automated payments through credit cards, debit cards, interactive voice response, web, or kiosk.

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- g. The fees and charges described in the video on Encartele's website and why those fees and charges are not included in the proposed tariff.
 - h. The justification for the \$0.31 per-minute rates since they exceed the rate set by the Federal Communications Commission for interstate calls.
4. Encartele, Inc., will be required to ensure that its annual reports, Dual Party Relay Service assessment, and invoice payments are up to date.

UTILITIES BOARD

Geri Huser Date: 2020.05.21
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Nick Wagner Date: 2020.05.21
09:59:56 -05'00'

ATTEST:

Anna Hyatt Date: 2020.05.21
12:44:21 -05'00'

Richard W. Lozier, Jr. Date: 2020.05.21
10:46:31 -05'00'

Dated at Des Moines, Iowa, this 21st day of May, 2020.