



FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1222; FR ID 162067]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

OMB Control Number: 3060-1222.

Title: Inmate Calling Services (ICS) Provider Annual Reporting, Certification, and Other Requirements, WC Docket Nos. 23-62, 12-375, DA 23-656.

Form Number(s): FCC Form 2301(a) and FCC Form 2301(b).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 30 respondents; 33 responses.

Estimated Time per Response: 5 hours - 220 hours.

Frequency of Response: Annual reporting and certification requirements, third party disclosure and waiver request requirements.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in sections 1, 2, 4(i)-(j), 5(c), 201(b), 218, 220, 225, 255, 276, 403, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)-(j), 155(c), 201(b), 218, 220, 225, 255, 276, 403, and 617, and the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Pub. L. 117-338, 136 Stat. 6156

Total Annual Burden: 9,690 hours.

Total Annual Cost: No cost.

Needs and Uses: In 2015, the Commission released the Second Report and Order and Third Notice of Further Proposed Rulemaking, WC Docket No. 12-375, 30 FCC Rcd 12763 (*2015 ICS Order*), in which it required that ICS providers file Annual Reports providing data and other information on their ICS operations, as well as Annual Certifications that reported data are complete and accurate and comply with the Commission's ICS rules. Pursuant to the authority delegated it by the Commission in the *2015 ICS Order*, the Wireline Competition Bureau (WCB) created a standardized reporting template (FCC Form No. 2301(a)) and a related certification of accuracy (FCC Form No. 2301(b)), as well as instructions to guide providers through the reporting process. *See* ICS Annual Reporting Form Word Template (Current), WC Docket No. 12-375 <https://www.fcc.gov/general/ics-data-collections> (last visited August 4, 2023) (Word Template); ICS Annual Reporting Form Excel Template (Current), WC Docket No. 12-375, <https://www.fcc.gov/general/ics-data-collections> (last visited August 4, 2023) (Excel Template); ICS

Annual Reporting and Certification Instructions (Current), WC Docket No. 12-375

<https://www.fcc.gov/general/ics-data-collections> (last visited August 4, 2023) (Instructions) (Certification Instructions); ICS Annual Report Certification Form (Current), WC Docket No. 12-375, <https://www.fcc.gov/general/ics-data-collections> (last visited August 4, 2023) (Certification Form).

In 2021, the Commission released the Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking WC Docket No. 12-375, 36 FCC Rcd 9519 (2021). The Commission revised its rules by adopting, among other things, lower interim rate caps for interstate calls, new interim rate caps for international calls, and a new rate cap structure that requires ICS providers to differentiate between legally mandated and contractually required site commissions. The revisions also included expanded consumer disclosure requirements, as well as new reporting requirements for providers seeking waivers of the Commission's interstate and international rates.

In 2022, the Commission released the Fourth Report and Order and Sixth Further Notice of Proposed Rulemaking, WC Docket No. 12-375, FCC 22-76 (Sept. 30, 2022). The Commission adopted numerous requirements to improve access to communications services for incarcerated people with communication disabilities and expanded the scope of the Annual Reports to reflect these new requirements. Specifically, the Commission required ICS providers to report, at a minimum, for each facility served, the types of telecommunications relay services (TRS) that can be accessed from the facility and the number of completed calls and complaints for TTY-to-TTY calls, ASL point-to-point video calls, and each type of TRS for which access is provided. The Commission also eliminated the safe harbor, adopted in 2015, that had exempted ICS providers from any TRS-related reporting requirements if they either (1) operated in a facility that allowed the offering of additional forms of TRS beyond those mandated by the Commission or (2) had not received any complaints related to TRS calls. The Commission found that the safe harbor was no longer appropriate given the expanded reporting requirement for additional forms of TRS, and the importance of transparency regarding the state of accessible communications in incarceration settings.

The Commission also specified a number of provider obligations relating to access to and the provision of TRS. For instance, the Commission required, among other things, that an ICS provider must work with correctional authorities, equipment vendors, and TRS providers to ensure that screen-equipped

communications devices such as tablets, smartphones, or videophones are available to incarcerated people who need to use TRS for effective communication, and all necessary TRS provider software applications are included, with any adjustments needed to meet the security needs of the institution. The Commission required that providers ensure compatibility with institutional communication systems and allow operability over the inmate calling services provider's network.

On January 5, 2023, the President signed into law the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Pub. L. 117-338, 136 Stat. 6156 (the Martha Wright-Reed Act or the Act), expanding the Commission's statutory authority over communications services between incarcerated people and the non-incarcerated to include "any audio or video communications service used by inmates . . . regardless of the technology used." The new Act also amends section 2(b) of the Communications Act of 1934, as amended (the Communications Act) to make clear that the Commission's authority extends to intrastate as well as interstate and international communications services used by incarcerated people.

The Act directs the Commission to "promulgate any regulations necessary to implement" the statutory provisions, including its mandate that the Commission establish a "compensation plan" ensuring that all rates and charges for IPCS "are just and reasonable," not earlier than 18 months and not later than 24 months after its January 5, 2023 enactment. The Act also requires the Commission to consider, as part of its implementation, the costs of "necessary" safety and security measures, as well as "differences in costs" based on facility size, or "other characteristics." It also allows the Commission to "use industry-wide average costs of telephone service and advanced communications services and the average costs of service a communications service provider" in determining just and reasonable rates.

On March 17, 2023, pursuant to the directive that the Commission implement the new Act and establish just and reasonable rates for IPCS services, the Commission released *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62, 12-375, Notice of Proposed Rulemaking and Order, FCC 23-19, 88 FR 20804 (2023 IPCS Notice) and 88 FR 19001 (Order) (2023 IPCS Order). The Commission sought comment on how to interpret the Act's language to ensure that the Commission implements the statute in a manner that fulfills Congress's intent. Because the Commission is now required or allowed to consider certain types of costs, the Act contemplates that it would undertake an additional data collection.

To ensure that it has the data necessary to meet its substantive and procedural responsibilities under the Act, the Commission adopted the *2023 IPCS Order* delegating authority to WCB and the Office of Economics and Analytics (OEA) to modify the template and instructions for the most recent data collection to the extent appropriate to timely collect such information to cover the additional services and providers now subject to the Commission's authority. On April 28, 2023, WCB and OEA issued a Public Notice seeking comment on all aspects of the proposed data collection. *WCB and OEA Seek Comment on Proposed 2023 Mandatory Data Collection for Incarcerated People's Communication Services*, WC Docket Nos. 23-62, 12-375, Public Notice, DA 23-355 (WCB/OEA Apr. 28, 2023). On July 26, 2023, WCB and OEA released an Order adopting instructions, a reporting template, and a certification form to implement the 2023 Mandatory Data Collection. *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act, Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62, 12-375, Order, DA 23-638 (July 26, 2023).

In the *2023 IPCS Order*, the Commission also reaffirmed and updated its prior delegation of authority to WCB and the Consumer and Governmental Affairs Bureau (CGB) (collectively, the Bureaus) to revise the instructions and reporting templates for the Annual Reports. Specifically, the Commission delegated to the Bureaus the authority to modify, supplement, and update the instructions and templates for the Annual Reports, as appropriate, to supplement the information the Commission will receive in response to the 2023 Mandatory Data Collection.

On August 3, 2023, the Bureaus issued a Public Notice seeking comment on proposed revisions to the instructions, template, and certification form for the Annual Reports, <https://www.fcc.gov/proposed-2023-ipcs-annual-reports>, which are necessary to reflect the revised rules improving access to communications services for incarcerated people with communication disabilities adopted in the *2022 ICS Order* and to help implement the Martha Wright-Reed Act to ensure just and reasonable rates for consumers and fair compensation for providers. *Wireline Competition Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Revisions to IPCS Providers' Annual Reporting and Certification Requirements*, Public Notice, WC Docket Nos. 23-62, 12-375, DA 23-656 (Aug. 3, 2023). <https://www.fcc.gov/document/2023-incarcerated-peoples-communications-services-annual-reports-pn>

Notice of this document will be published in the Federal Register. The Bureaus will consider comments submitted in response to the Public Notice in addition to comments submitted in response to this 60-Day Notice in finalizing this information collection prior to submitting the documents to the Office of Management and Budget.

FEDERAL COMMUNICATIONS COMMISSION.

Katura Jackson,

Federal Register Liaison Officer.

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