



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 12-375; FCC 22-76; FR ID 193391]

Rates for Interstate Inmate Calling Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the Commission's 2022 *ICS Order*, FCC 22-76 (September 30, 2022), in which the Commission, among other actions, adopted rules to improve access to communications services for incarcerated people with communication disabilities that expand the requirements for advanced Telecommunications Relay Service (TRS). This document is consistent with the 2022 *ICS Order*, which stated that the Commission would publish a document in the *Federal Register* announcing the effective date of this rule.

DATES: The addition of 47 CFR 64.6040(c) (amendatory instruction 11), published at 87 FR 75496 on December 9, 2022, and delayed indefinitely, is effective on January 9, 2023.

FOR FURTHER INFORMATION CONTACT: William Kehoe, Pricing Policy Division, Wireline Competition Bureau, (202) 418-7122, or email William.kehoe@fcc.gov.

SUPPLEMENTARY INFORMATION: This document announces that, on December 14, 2023, OMB approved, for a period of three years, the information collection requirements relating to § 64.6040(c) of the Commission's rules, as contained in the Commission's 2022 *ICS Order*, FCC 22-76, published at 87 FR 75496 on December 9, 2022. The OMB Control Number is 3060-1222. In the 2022 *ICS Order*, the Commission stated that the amendments to the rules were effective on January 9, 2023, except for the amendments to §§ 64.611(k)(1)(i) through (iii), 64.6040(c), and 64.6060(a)(5) through (7), which were delayed pending OMB approval. The Commission publishes this document as an announcement of the effective date of § 64.6040(c) only.

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20002. Please include the OMB Control Number, 3060-1222, in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on December 14, 2023, for the information collection requirements contained in § 64.6040(c) of the Commission's rules.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060-1222.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

The data collection burdens and costs for the respondents are as follows:

OMB Control Number: 3060-1222.

OMB Approval Date: December 14, 2023.

OMB Expiration Date: December 31, 2026.

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

Form Numbers: FCC Form 2301(a) and FCC Form 2301(b).

Respondents: Business or other for profit.

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

Estimated Time per Response: 5 hours - 1,200 hours.

Frequency of Response: Annual reporting and certification requirements, third party disclosure and waiver 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, Public Law 117-338, 136 Stat. 6156.

Total Annual Burden: 6,690 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 inmate calling services (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 December 18, 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 December 18, 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 December 18, 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 December 18, 2023) (Certification Form).

In 2021, the Commission released the Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking (FNPRM) 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 (September 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. Pursuant to § 64.6040(c), the Commission required, among other things, that, as part of its obligation to provide access to telecommunications relay services (TRS), when an incarcerated person who has individually registered to use video relay service (VRS), internet protocol (IP) Relay, or internet protocol captioned telephone service (IP CTS) is released from incarceration or transferred to another correctional facility, the ICS provider must notify the TRS provider(s) with which the incarcerated person has registered. Under section § 64.6060(a)(5) through (7), the Commission amended the annual reporting and certification requirement to include, among other things, that ICS providers report, for each facility served, the types of TRS that can be accessed from the facility and the number of completed calls and complaints for TTY-to-TTY calls, American Sign Language (SL) point-to-point video calls, and each type of TRS for which access is provided.

On January 5, 2023, the President signed into law the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law No. 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 of 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 incarcerated people’s communications services (IPCS), 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 April 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.

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 (August 3, 2023). <https://www.fcc.gov/document/2023-incarcerated-peoples-communications-services-annual-reports-pn>. Notice of this document was published in the Federal Register at 88 FR 53850 on August 9, 2023.

The Bureaus have not yet issued an Order adopting revisions to the instructions, template, and certification form for the Annual Reports. To effectuate the improved access to communications services for incarcerated people with communication disabilities required by § 64.6040(c) of the Commission's rules, the Bureaus divided the information requirements and burdens of this information collection into two PRA submissions to OMB, with the first seeking approval of the new information requirements associated with § 64.6040(c) of the Commission's rules. OMB approved the revised information collection on December 14, 2023. Upon release of an Order adopting revisions to the instructions, template, and certification form for the Annual Reports, the Bureaus will seek OMB approval of any revised information requirements adopted in that Order, as well as the new information requirements in § 64.6060(a)(5) through (7), which expands the rule requiring the filing of Annual Reports to include additional data related to access to communications services for incarcerated people with communication disabilities.

FEDERAL COMMUNICATIONS COMMISSION

Katura Jackson,
Federal Register Liaison Officer.

