



## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[WC Docket Nos. 12-375, 23-62; DA 25-23; FR ID 278652]

### **Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final order; filing deadline waiver.

**SUMMARY:** In this document, the Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau (the Bureaus) of the Federal Communications Commission (FCC or Commission) adopt an Order revising the instructions, reporting templates, and certification form for the annual reports submitted by providers of communications services to incarcerated people and waiving the filing deadline for the 2025 Annual Reports.

**DATES:** The April 1, 2025 filing deadline for the 2025 Annual Reports is waived and is extended to June 2, 2025. The Federal Communications Commission will publish a document in the *Federal Register* announcing the date the revisions to the annual reporting requirements, as described in the final rule published on September 20, 2024, at 89 FR 77244, will be effective.

**FOR FURTHER INFORMATION CONTACT:** Stephen Meil, Pricing Policy Division of the Wireline Competition Bureau, at (202) 418-7233 or via email at [stephen.meil@fcc.gov](mailto:stephen.meil@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order, in WC Docket Nos. 12-375 and 23-62, document DA 25-23, adopted and released on January 8, 2025. The full text of this document can be accessed electronically via the FCC's Electronic Document Management System (EDOCS) website at <https://docs.fcc.gov/public/attachments/DA-25-23A1.pdf> or via the FCC's Electronic Comment Filing System (ECFS) website at [www.fcc.gov/ecfs](http://www.fcc.gov/ecfs). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to

fcc504@fcc.gov, or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

## **Synopsis**

### **I. INTRODUCTION**

By this Order, the Wireline Competition Bureau (WCB) and the Consumer and Governmental Affairs Bureau (CGB) (collectively, the Bureaus) revise the instructions, reporting templates, and certification form for the Annual Reports that providers of incarcerated people's communications services (IPCS) are required to submit pursuant to the Commission's regulations in 47 CFR part 64. The revisions the Bureaus implement today primarily incorporate the expanded Commission authority under the Martha Wright-Reed Just and Reasonable Communications Act of 2022 (Martha Wright-Reed Act or Act), and largely adopt the proposals contained in documents released on August 3, 2023 and September 11, 2024, with certain refinements and modifications made in response to comments in support of streamlining reporting obligations. Martha Wright-Reed Act, Pub. L. 117-338, 136 Stat. 6156; DA 23-656, 88 FR 53850, August 10, 2023 (DA 23-656); DA 24-918, 89 FR 80449, October 3, 2024 (DA 24-918). The Bureaus' revisions also reflect the Commission's expanded authority under the Martha Wright-Reed Act, as well as the reporting requirements proposed in DA 23-656 regarding access to IPCS by persons with communication disabilities, including access to Telecommunications Relay Service (TRS).

### **II. BACKGROUND**

The Commission requires IPCS providers to make annual filings, which "enable the Commission and the public to monitor pricing practices and trends in the IPCS marketplace generally." In 2015, pursuant to delegated authority, WCB created a standardized reporting template (FCC Form 2301(a)) for the Annual Reports and a related certification form (FCC Form 2301(b)), as well as instructions to guide providers through the reporting and certification process. Rates for Interstate Inmate Calling Services, 80 FR 79135, December 18, 2015. FCC

Form 2301(a) is presently comprised of an Excel template and a Word template. WCB amended the instructions, reporting templates, and certification form in 2020 in order to improve the type and quality of the information collected. Rates for Interstate Inmate Calling Services, 85 FR 67450, October 23, 2020. In 2022, WCB again amended the instructions, reporting template, and certification form to reflect the reforms adopted in the *2021 ICS Order*, Rates for Interstate Inmate Calling Services, 86 FR 40682, July 28, 2021 (*2021 ICS Order*), including lower interim rate caps for interstate inmate calling services (ICS) calls, new interim rate caps for international ICS calls, and a rate cap structure that requires ICS providers to differentiate between legally mandated and contractually required site commissions. Rates for Interstate Inmate Calling Services, 87 FR 47103, August 2, 2022. The reforms also included expanded consumer disclosure requirements, as well as new reporting requirements for ICS providers seeking waiver of the Commission's interstate and international rates.

Subsequent developments required additional changes to the instructions, reporting template, and certification form. First, in September 2022, the Commission adopted the *2022 ICS Order*, which included requirements to improve access to communications services for incarcerated people with communication disabilities and expanded the scope of the Annual Reports to reflect those new requirements. Rates for Interstate Inmate Calling Services, 87 FR 75496, December 9, 2022 (*2022 ICS Order*). Among the numerous reforms, the Commission required all ICS providers to provide access to all relay services eligible for TRS Fund support in any facility where broadband is available and where the average daily population incarcerated in that jurisdiction (i.e., in that city, county, state, or the United States) totals 50 or more persons. The Commission also adopted targeted reforms to lessen the financial burden on incarcerated people and their loved ones when using calling services.

As part of the *2022 ICS Order*, the Commission required ICS providers to list, at a minimum, 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 calling, point-to-point American

Sign Language (ASL) 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 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. A provider that fell within the safe harbor was required to include a certification from an officer of the company stating which prong(s) of the safe harbor it had met. The Commission found that the safe harbor was no longer appropriate given the expanded reporting requirements for additional forms of TRS, and the importance of transparency regarding the state of accessible communications in incarceration settings. The Commission delegated authority to the Bureaus to implement the expanded reporting obligations and to develop a reporting form that would most efficiently and effectively elicit the required information.

Second, on January 5, 2023, the President signed into law the Martha Wright-Reed Act, which expanded the Commission's statutory authority over communications between incarcerated people and the non-incarcerated, including "any audio or video communications service used by inmates . . . regardless of technology used." The new Act also amended 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 directed the Commission to "promulgate any regulations necessary to implement" the Act, 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 the Act's January 5, 2023 enactment date. The Act also required 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 allowed 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.

Pursuant to the directive that the Commission implement the new Act and ensure just and reasonable rates and charges for IPCS, in 2023, the Commission sought comment on how to interpret the Act’s language to ensure that the Commission implemented the statute in a manner that fulfilled Congress’s directives. *Incarcerated People's Communication Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, 88 FR 20804, April 7, 2023 (DA 23-19). The Commission also reaffirmed and updated its prior delegation of authority to the Bureaus to modify, supplement, and update the instructions and templates for the Annual Reports. *Incarcerated People's Communication Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, 88 FR 19001, March 30, 2023. On August 3, 2023, the Bureaus sought comment on proposed revisions to the instructions and templates for the annual reports and annual certifications. The Bureaus received comments or reply comments in response from three IPCS providers.

Third, in July 2024, the Commission adopted the *2024 IPCS Order*, which implemented the expanded authority granted to the Commission by the Martha Wright-Reed Act. *Incarcerated People's Communication Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, 89 FR 77244, September 20, 2024 (*2024 IPCS Order*). In that Order, the Commission revised its rules by, *inter alia*:

- Adopting permanent rate caps for audio IPCS and interim rate caps for video IPCS;
- Adopting new facility tiers for both audio and video IPCS;
- Prohibiting providers from imposing any ancillary service charges on IPCS consumers;
- Prohibiting providers from making site commission payments associated with IPCS;
- Allowing providers to offer alternate pricing plans for IPCS subject to certain conditions;
- Revising and strengthening existing consumer disclosure and inactive account requirements; and

- Revising and strengthening IPCS accessibility requirements for incarcerated people with disabilities.

We note that, in the *2024 IPCS Order*, the Commission adopted the use of the terms “incarcerated people’s communications services” and “IPCS,” in place of “inmate calling services” or “ICS,” to refer to “the broader range of communications services subject to the Commission’s jurisdiction as a result of the [Martha Wright-Reed] Act.”

The *2024 IPCS Order* also modified the scope and content of the annual reporting requirements to reflect the reforms adopted under the Martha Wright-Reed Act. The Commission expanded its annual reporting and certification requirements to include the full scope of services and providers now subject to the IPCS rules. The Commission also eliminated the sections of the annual reporting rules mandating the reporting of information on ancillary service charges and site commissions, to reflect the prohibitions of those items adopted in the *2024 IPCS Order*. The Commission also retained the rules describing the reporting requirements concerning TRS and related communications services, but renumbered them. Finally, the Commission reaffirmed and updated its prior delegation of authority to the Bureaus to revise the requirements for the Annual Reports, to reflect the Commission’s expanded authority under the Martha Wright-Reed Act and the other actions taken in the *2024 IPCS Order*, and directed the Bureaus to pay particular attention to the video IPCS marketplace and the availability and usage of Telecommunications Relay Services (TRS) in exercising this delegated authority.

Pursuant to this updated delegated authority, the Bureaus released DA 24-918 seeking to “expand and refresh the record on revisions to the Annual Report instructions, templates, and certification form, in addition to those proposed in DA 23-656, and to implement the modifications to the annual reporting and certification requirements adopted by the Commission in the *2024 IPCS Order*.” The Bureaus also sought comment on “any additional modifications the Bureaus should consider to make these forms consistent with the new rules, including the varied compliance dates adopted in the *2024 IPCS Order*” for the Commission’s rate cap and site

commission reforms. The Bureaus received comments from IPCS providers and public interest advocates.

### **III. DISCUSSION**

Pursuant to their delegated authority, the Bureaus adopt revised instructions and templates for the Annual Reports and certifications for IPCS providers, a link to which is provided in section V below. The reporting template consists of a Word document and Excel spreadsheets. For simplicity, this document refers to these respective portions of the reporting template as the Word template and the Excel template. These instructions and templates largely follow the proposals in DA 23-656 and DA 24-918, with revisions to both enhance the value and usefulness of the Annual Reports and reduce existing or proposed reporting burdens, while continuing to enable the Commission to monitor the IPCS marketplace. To that end, the Bureaus expect the detailed instructions and templates they adopt herein to result in reports that provide the Commission, its state counterparts, and the public with a clearer, more complete picture of IPCS providers' service offerings than was available under prior Annual Reports, while on balance decreasing reporting burdens on providers. The changes the Bureaus make to the instructions and templates will bring increased transparency to IPCS providers' rates, charges, and practices, help ensure compliance with the Commission's IPCS rules, and allow the Commission to "monitor pricing practices and trends in the IPCS marketplace generally."

#### **A. Overall Structure of the Annual Reporting and Certification Requirements**

Pursuant to their delegated authority, the Bureaus revise the Annual Report instructions, templates, and certification form to reflect the Commission's 2022 amendments to the Annual Reports rule and to include the additional services and providers now subject to the Commission's authority under the Martha Wright-Reed Act. These revised instructions and the associated template and certification form will consolidate and supplant the instructions and template for earlier iterations of the Annual Report instructions, template, and certification form. The Bureaus also implement additional improvements based on their experience reviewing prior

Annual Reports, such as simplifying the collection in some respects and revising the instructions to facilitate providers' compliance with the collection. These improvements will make the submitted reports more useful to the Commission and consumers.

As a general matter, the Bureaus maintain the existing Excel-format template and Word-format template for the Annual Reports to better separate providers' data and narrative responses. The Bureaus likewise retain the certification form with minor revisions.

*General Categories of Information Requested.* The revised instructions, like those for prior Annual Reports, require providers to submit certain types of information related to their operations, IPCS rates, and disability access, including data regarding their interstate, intrastate, and international audio and video IPCS rates.

In DA 23-656, the Bureaus proposed to expand the Annual Reports to collect information regarding video IPCS in light of the Martha Wright-Reed Act and to implement the expanded reporting obligations for TRS adopted in the 2022 ICS Order. In response, Securus argued that it was premature to collect such information, because at that time (i.e., September 2023) “[t]he Commission’s codified rules . . . d[id] not authorize the collection and reporting of this information.” With regard to video IPCS, Securus argued that the codified version of § 64.6060 then in effect, was limited to “inmate calling services” and thus did not encompass video services. And with regard to reporting on TRS obligations, Securus argued that while the *2022 ICS Order* “expanded the reporting obligations in the Annual Report to include the advanced forms for TRS and point-to-point video, those reporting rules [had been] delayed indefinitely pending OMB approval.”

In subsequent advocacy in response to DA 24-918, Securus does not challenge the collection of information regarding video IPCS or TRS. In the *2024 IPCS Order*, the Commission adopted regulations, including interim rate caps and a per-minute rate requirement, applicable to video IPCS and explicitly amended the scope and content of § 64.6060 to reflect the expansion of the Commission’s jurisdiction over advanced communications services,

including video services. The Commission also retain[ed] the reporting requirements concerning TRS and related communications services in § 64.6060(a)(5)-(7), but renumber[ed] them as § 64.6060(a)(2)-(4). With regard to TRS reporting, “Securus supports the current version of the TRS-related annual reporting revisions as set forth in § 64.6060(a)(2)-(4).” The Office of Management and Budget (OMB) approved the TRS requirements adopted in the *2022 ICS Order*. The Bureaus find these actions address the concerns raised by Securus in connection with DA 23-656.

## **B. Specific Data and Information Inquiries**

### **1. Definitions**

The Bureaus adopt the new and revised definitions in the instructions that they had proposed in August 2023 with modifications as discussed below. These new and revised definitions reflect the Commission’s expanded authority over IPCS pursuant to the Martha Wright-Reed Act. In the *2024 IPCS Order*, the Commission revised § 64.6060(a) “so the annual reporting requirement applies to IPCS providers, rather than the more limited universe of ICS providers.” This change “makes providers of video IPCS and advanced communications services not previously covered by [the Commission’s] IPCS rules subject to the annual reporting requirement.” Accordingly, and in response to comments in the record, the definitions in the instructions have been revised to “encompass all IPCS providers offering any type of IPCS – audio or video, interstate/international or intrastate – regardless of the technology used to provide the service.” The Bureaus agree with ViaPath that “[a]ll IPCS providers must be subject to the same set of rules,” including the annual reporting and certification obligations. To eliminate any potential doubt, the Bureaus take this opportunity to emphasize that all providers that meet the Commission’s definition of a “Provider” are required to comply with the Commission’s IPCS rules, including the annual reporting and certification obligations.

*Definition of Audio IPCS.* Securus points out that “the definition of Audio IPCS includes all TRS services, including video relay and point to point video.” Securus suggests that the

Bureaus “clarify that for purposes of reporting rates in tabs C through E [of the Excel template], the rates exclude any rates associated with TRS.” Securus argues that “[a]bsent this clarification the tabs providing rate information for Audio IPCS could be misinterpreted as applying to all TRS services.” Securus notes that Tab L of the Excel template is used for reporting billed revenues for TTY-based services. The Bureaus agree and clarify that in reporting audio IPCS rates in Tabs C and D, the rates exclude any rates associated with TRS. The Bureaus find that the proposed Tab E, which collected information on audio IPCS rates above the Commission’s rate cap rules, is rendered unnecessary and duplicative as a result of their decision to require reporting on a highest rate charged basis. Accordingly, they have removed Tab E from the Excel template and the related instructions and Word template questions.

*Definition of Video IPCS.* ViaPath argues that the Bureaus should revise the definition of “Video IPCS” in the instructions such that certain content-based video programming is treated similarly regardless of whether it permits one-way or two-way communication. ViaPath argues that “some educational or vocational courses allow the incarcerated person to speak to the professor or interact with other classmates.” Securus adds that the exclusion of one-way content delivery “creates potential confusion regarding the treatment of potential two-way content programming, such as educational classes.” In the *2024 IPCS Order*, the Commission found that “[w]here two or more people can use a video conferencing service to share information with one another in real-time, that service is subject to [the Commission’s] section 276 authority in the incarceration context” and that “[t]his authority also extends to educational, vocational, or other programming in which incarcerated people participate in real-time in the incarceration context.” The Commission further found that “entertainment and other forms of content that are not real-time communications services are not included in [the Commission’s] authority over interoperable video conferencing.” Considering the Commission’s findings in the *2024 IPCS Order*, which was released after ViaPath filed its 2023 comments, the Bureaus amend the definition of “Video IPCS” in the instructions to be consistent with that Order. Specifically, for

purposes of the Annual Reports, the Bureaus revise the definition of Video IPCS in the instructions to exclude entertainment and other forms of content that are not real-time communications. The Bureaus note that such services “may, however, be subject to [the Commission’s] authority under section 3(1)(E), which is not limited to real-time communications services.”

*Definition of Safety and Security Measures.* In the 2024 IPCS Order, the Commission determined which safety and security costs are used and useful in the provision of IPCS and included those costs in the IPCS rate caps that it established. Given the Commission’s determination, the Bureaus find it unnecessary to collect information on safety and security measures through the Annual Reports, and therefore delete the definition of Safety and Security Measures from the instructions they adopt here. Consequently, the Bureaus find that the concerns raised in the record regarding this definition are moot.

## **2. Facilities and Contract Information**

The Excel template that the Bureaus adopt today includes a new worksheet that moves detailed contract and facility information already collected on multiple worksheets throughout the Excel template to Tab B. The Bureaus find that collecting this granular information once on a single worksheet will help ensure consistent facility and contract-level reporting, and eliminate the need to repeatedly enter such detailed information on other worksheets throughout the Excel template, thereby reducing the burden on IPCS providers. Below the Bureaus address several targeted revisions to the reporting of facility and contract information in the Excel template consistent with the record.

*Excel Template Tab A.* Securus argues that “the number and breakdown of facilities by type and size will produce numbers that will be over-inclusive of facilities at which an IPCS Provider provides both Audio and Video IPCS, Audio IPCS-only, or Video IPCS-only.” The Bureaus agree and have revised Tab A to allow IPCS providers to more accurately report those facilities at which they offer only audio IPCS, only video IPCS, or both.

*Excel Template Tab B.* Securus recommends adding columns to Tab B of the Excel template for providers to report whether they offer audio IPCS, video IPCS, or both at the facilities they serve. The Bureaus agree and simplify the recommendation by adding a single column with a drop-down menu for providers to report the service or services offered.

*Excel Template Tabs C through L.* Securus also suggests that using “a numerical contract and facility identifier alone for Tabs C through L will require a user to constantly go back and forth from Tab B to the other tabs to identify the applicable contract and facility.” To alleviate this concern, Securus suggests that the Commission consider “some additional contracting or facility data to allow easy reference from tab to tab” and “recommends including under the Contract and Facility Information columns for the Contracting Authority, Facility Name and Facility State.” While providers are welcome to add additional columns if it helps to ensure the accuracy of their filings, the Bureaus decline to require providers to report this additional information in order to minimize the reporting burden on IPCS providers.

### **3. Audio and Video IPCS Rates**

The Bureaus streamline the reporting of audio and video IPCS rates as discussed below. In doing so, the Bureaus modify the approach they proposed in DA 23-656 based on comments in the record arguing that some of the proposed reporting requirements would be unnecessarily burdensome. The Bureaus find that the revisions described below properly balance the need for the Commission to obtain data sufficient to ensure compliance with its IPCS rules and inform the Commission of industry trends, while reducing reporting burdens on IPCS providers where feasible. In addition to these revisions, and to account for the staggered dates adopted by the Commission for providers’ compliance with the rate cap and site commission reforms adopted in the *2024 IPCS Order*, the Bureaus require IPCS providers to report for each facility, the date on which each facility became subject to the Commission’s new IPCS rate caps and site commission reforms. The Bureaus address each of these matters below.

*Interstate and Intrastate Audio and Video IPCS.* In DA 23-656, the Bureaus proposed to require IPCS providers to submit interstate and intrastate IPCS rates for audio services across a number of categories, including: (i) highest 15-minute rate; (ii) highest year-end 15-minute rate; and (iii) average per-minute rate. The Bureaus also proposed using the same reporting approach for video IPCS because “providers are already familiar with the[] reporting categories for audio IPCS” such that “using the same rate reporting approach for video IPCS will help minimize burdens associated with reporting this additional information regarding their video services.”

Some commenters contend that the proposed categories of rate data would be unnecessarily burdensome. ViaPath argues that the burden imposed by the proposed categories of rate data is not justified given the limited utility of the resulting data. ViaPath also notes that it “does not maintain historical rate data in 15-minute increments.” To reduce the burden, ViaPath suggests that the Bureaus only require providers to report the highest per-minute rate charged at a facility during the calendar year and eliminate the need for providers to calculate 15-minute increments. Securus contends that the collection of rate data “can be significantly streamlined without impairing the ability of the Commission to obtain meaningful information.” It argues that the Bureaus should “require providers to identify their per-minute rate for each facility and the cost of a 15-minute call” and suggests that the Bureaus “abandon requiring the highest year-end rates as those seldom differ and the relevance of that information is unclear.” Securus also notes that “the current template is outdated as most providers no longer charge separate rates for the first minute of a call and remaining minutes.”

The Bureaus agree with ViaPath that “the highest per-minute rate charged at the facility during the calendar year . . . will confirm whether an IPCS provider is in compliance with the Commission’s rate cap rules in effect at that time.” Accordingly, the Bureaus streamline the proposed rate categories to require IPCS providers only to report their highest per-minute audio and video IPCS rates at each facility for the calendar year. The Bureaus eliminate the need to report rate information in 15-minute intervals, to calculate an average per-minute rate, and to

report the first minute rate and the rate for additional minutes. Nothing in the record indicates that reporting interstate and intrastate audio and video IPCS rates in 15-minute intervals or requiring the calculation of an average per-minute rate is necessary to ensure compliance with the Commission's rules. And, as ViaPath notes, these calculations may be "laborious" for certain providers. Furthermore, as Securus notes, most providers no longer charge separate rates for the first minute of a communication and remaining minutes, rendering this information of little utility in determining compliance with the Commission's IPCS rate caps. To the extent a provider charges a different first minute rate and that rate is higher than the rate for subsequent minutes, that first minute rate would be reported as the highest per-minute rate for that facility. The Bureaus are therefore persuaded that streamlining the reporting in this way should provide the Commission with information sufficient to determine providers' compliance with its IPCS rules while reducing reporting burdens on IPCS providers.

With regard to the reporting of video IPCS rates, Securus also argues that the proposed Excel template for reporting video IPCS rates is "unsuited to supply meaningful rate information to the Commission." Securus explains that Tab F of the proposed Excel template "recognizes that providers' unit of sale of Video IPCS may not be per-minute rates but per-session rates." But, Securus contends that the worksheet "requires providers to enter the cost of the session as if it was 15 minutes, no matter the actual unit of sale." Securus suggests that the Commission "have a method to enter per session rate information or other alternatives to per minute billing that a provider may have been using." Securus also suggests that the "Commission should consider providing separate tabs to reflect the different ways that providers charge for video services."

The Bureaus find that their approach to the reporting of video IPCS rate data in the instructions and Excel template is consistent with reforms subsequently adopted in the *2024 IPCS Order* and therefore moots the concerns Securus raised in 2023. For video IPCS rates, the Bureaus require IPCS providers to begin reporting those data as of November 19, 2024, which is

the date on which the *2024 IPCS Order* became effective, including the requirement to offer video IPCS on a per-minute basis. Because the Bureaus do not require providers to report their IPCS video rates prior to the date on which they were required to begin offering that service on a per-minute basis, the Bureaus decline to adopt the proposed instructions or Excel template that would enable providers to account for potential alternatives to per-minute rate structures that IPCS providers may have been using prior to the effective date of the *2024 IPCS Order*.

The Bureaus also adjust the reporting of interstate and intrastate audio and video IPCS rates. For calendar year 2024, during which no intrastate rate caps were in effect, the Bureaus require IPCS providers to separately report their highest per-minute interstate and intrastate rates except to the extent that a provider's interstate and intrastate rates were the same, in which case they need not report separately for each jurisdiction. To further assist providers in determining whether they must report separate interstate and intrastate audio and video IPCS rates, the Bureaus include a question in each tab of the Excel template in which they seek interstate and intrastate rate data asking whether the provider's interstate and intrastate audio and video IPCS rates were the same. If so, the instructions make clear that the provider need not fill in any duplicate or repetitive entries in that tab. The Bureaus take a similar approach in connection with international IPCS, as discussed below.

Finally, Securus suggests that the Bureaus "eliminate the facility-rate in light of the changes in the *2024 IPCS Order*," which eliminated site commissions. The Bureaus agree and remove that requirement from the instructions and Excel template.

*International Audio and Video IPCS.* The Bureaus adjust the instructions and reporting templates to streamline the reporting of international audio and video IPCS rates, consistent with the record. Securus notes that the "current template requires (on a per-facility basis) identification of international calls by destination, and then the highest, first and additional minute rates and maximum and average termination charge by [q]uarter." Securus suggests that the "highly disaggregated nature of the international rate reporting is thus highly burdensome

and requires reporting of insignificant detail.” To streamline the reporting of international rate information, Securus recommends that the Excel template have two tabs: one for facility information and a second for termination charges. The first tab would initially ask if a facility allows international calling. A “no” answer would eliminate the need for further reporting of international rate data for that facility. Another question would ask whether the interstate portion of the international rate is the same as the applicable interstate rate. A “yes” answer would mean the provider would not need to report further information regarding the interstate portion of the international rate, while a “no” answer would be subject to further explanation in the Word template. Another column would determine whether any rates are above the applicable rate caps and would require specifying rates only if the provider indicates that a rate is above the rate cap. In the second tab, providers would report their average quarterly termination charges for each international destination. In connection with video IPCS, Securus suggests the addition of a preliminary question asking whether the provider offers international video IPCS. If a provider answers “no,” then there would be no need to complete that relevant tab. Finally, Securus suggests that the Bureaus clarify the proposed requirement to explain how IPCS providers market video IPCS to consumers, including any bundles.

The Bureaus adopt a modified version of Securus’s proposal, which they find will substantially streamline the reporting of international audio and video IPCS rates while at the same time providing the Commission with sufficient data with which to determine compliance with its IPCS rules and monitor industry trends. As an initial matter, the Bureaus adopt Securus’s proposal that they request quarterly international termination data by destination rather than by facility. This change will eliminate the need for providers to provide data on each international destination at each facility.

The Bureaus ask two preliminary questions in the Excel template about whether IPCS providers offer international audio or video IPCS. The first is in Tab C, where providers are instructed to indicate if they offer international audio IPCS at each facility they serve. If a

provider answers “no” for a given facility then the provider is not required to complete the international audio IPCS information in Tab D for that facility. Then in Tab E, providers are instructed to indicate whether they offer international video IPCS at each facility they serve. If the answer is “no” for a given facility then the provider is not required to complete the international video IPCS information in Tab F for that facility. Cumulatively, if a provider does not offer any international video IPCS at any facility it serves, that provider will not be required to complete the Excel Tab F for international video IPCS. The Bureaus find that these preliminary questions will help to streamline the reporting of international rate information as Securus suggests.

To streamline reporting obligations in connection with international audio IPCS, the Bureaus instruct providers to indicate whether the rate for the interstate portion of the international rate is the same as the applicable interstate rate the provider charges. If the provider answers “yes,” the instructions explain that the IPCS provider does not need to report its highest interstate per-minute rates in Tab D for each calendar quarter. This question reduces the need for providers to enter the same information twice. If a provider answers “no” the Bureaus have included a Word template question directing providers to explain how the interstate portion of its international rate differed from its interstate rate. The Bureaus then direct providers to report termination charges on a quarterly basis for each international destination, as suggested by Securus. Because the streamlined reporting obligations the Bureaus adopt today seek the highest per-minute rates providers charge, the Bureaus need not include a column in the Excel template asking IPCS providers to indicate whether they charge rates above the applicable rate caps. In obtaining the highest per-minute rate, the Commission should have sufficient information to determine if there are rates being charged that are above the applicable caps.

To streamline reporting obligations in connection with international video IPCS, the Bureaus adopt a similar reporting structure as for international audio IPCS, however with additional questions intended to more accurately capture the development, deployment, and

marketplace practices for video IPCS. The Bureaus include a question in Tab F asking whether a provider's international video IPCS rates are the same as its interstate video rates. As indicated in the revised instructions, a provider should select "yes" only if its interstate rates are the same as its international video IPCS rates and if the provider does not charge or pass through termination charges for completing international video IPCS communications. If a provider selects "yes," it will not be required to report its highest interstate per-minute rates in Tab F as the Commission will have collected interstate video rates in a separate tab. To account for scenarios in which providers may charge different rates for the interstate portion of an international video IPCS communication and interstate rates for video IPCS, the Bureaus ask a similar "yes" or "no" question as with audio IPCS and direct providers to respond in the Word template to explain any differences. In a similar vein, the Bureaus include an additional question in Tab F, which directs providers to indicate whether they impose international termination charges for video IPCS. If a provider does not impose international termination charges for video IPCS, then they are not required to report their quarterly average termination charges.

Finally, the Bureaus decline to require IPCS providers to explain how they market video IPCS to consumers, including any bundles, as originally proposed. The Bureaus find that gathering such data is unnecessary due to the rules the Commission adopted in the *2024 IPCS Order*, which require providers to offer rates for video IPCS on a per-minute basis. Separately, the Bureaus find that the information they direct providers to provide related to any alternate pricing plans offered in addition to per-minute video IPCS covers how those services are marketed differently. Thus, Securus's request that the Bureaus clarify what "bundling" means is moot.

*Compliance Dates.* In the *2024 IPCS Order*, the Commission adopted staggered compliance dates for its new audio and video IPCS rate caps and the elimination of site commission payments. These compliance dates range from January 1, 2025 to April 1, 2026. Thus, starting in 2025, there may be periods during which some IPCS providers are not subject

to the Commission's new IPCS rate caps and prohibition on the payment of site commissions associated with IPCS. To enhance the Commission's ability to monitor compliance with its new rate caps and site commission reforms, the Bureaus require IPCS providers to provide, for each facility subject to these reforms as of the end of the reporting period in question, the date by which it was required to comply with the Commission's new rate caps and site commission reforms, beginning with the 2026 Annual Reports. The Bureaus have therefore added a column in Tab B of the Excel template in which to report this information. For purposes of the 2025 Annual Reports (providing information for calendar year 2024), however, the Bureaus do not require IPCS providers to provide compliance dates. Identifying the compliance date applicable to each facility is critical to ascertaining providers' compliance with the applicable rate cap and site commission rules. Providers are not required to report compliance dates prospectively; they are only required to report compliance dates that occur either during or prior to the reporting period in question.

#### **4. Ancillary Service Charges**

The Bureaus streamline the reporting of ancillary service charges by requiring providers to indicate in the Excel template whether they, or any subcontractors they use, assessed ancillary service charges in connection with audio and/or video IPCS during the reporting period following the effective date of the prohibition on such charges. If a provider answers "yes," the instructions direct them to complete a Word template question explaining those charges. If a provider answers "no," then nothing further is required. This is consistent with Securus's suggestion that the Bureaus add a preliminary question to the tabs seeking information on ancillary service charges asking whether the provider imposed ancillary service charges with respect to video IPCS.

At the same time, the Bureaus decline to fully eliminate separate reporting for ancillary services as Securus requests. As is well documented throughout these proceedings, ancillary service charges have been the center of discussion around potential abuses which ultimately

result in furthering the economic burdens faced by the incarcerated and their friends, families, and loved ones. While the Commission eliminated separate ancillary service charges in the *2024 IPCS Order*, the Annual Reports are used to monitor compliance with the Commission's rules, including prohibitions such as those now in effect for ancillary service charges. The Bureaus therefore eliminate existing ancillary service charge reporting obligations and instead require providers to respond to the streamlined instructions as described above. The Bureaus find that the burden of completing the "yes" or "no" question for 2024 and in subsequent years should be minimal, and will help the Commission continue to monitor compliance with its rules. In this case, the 2025 Annual Reports will require the submission of calendar year 2024 data, during which IPCS providers could charge separately for their ancillary services until November 19, 2024, the effective date of the Commission's IPCS reforms concerning ancillary services in the *2024 IPCS Order*.

## **5. Site Commissions**

The Bureaus take the same approach with site commissions that they take with ancillary service charges by requiring providers to indicate in the Excel template whether they paid site commissions associated with audio and/or video IPCS during the reporting period. If a provider answers "yes," the instructions direct them to complete a Word template question explaining those charges. If a provider answers "no," then nothing further is required. This is a significant reduction from the site commissions reporting initially proposed, which, among other things, would have required IPCS providers to: (1) report their average total monthly site commission payments on a facility-by-facility basis; (2) separate those payments between legally mandated and contractually prescribed site commission payments; (3) subdivide both types of payments between monetary and in-kind payments; and (4) within those subdivisions, to report the portions of the payments that were either fixed or variable.

Securus argues that because of the Commission's elimination of site commissions in the *2024 IPCS Order*, "information regarding them for the 2024 calendar year will not provide

relevant data points.” The Bureaus disagree. While it is true that the Commission eliminated site commission payments associated with IPCS in the *2024 IPCS Order*, compliance with that requirement is not required until January 1, 2025 at the earliest and April 1, 2026 at the latest. Thus, for calendar year 2024, IPCS providers were permitted to pay site commissions. And due to the staggered compliance dates with respect to the elimination of site commissions, there likely will be periods in 2025 and 2026 in which some IPCS providers will still be paying site commissions. The Bureaus thus find it appropriate to collect information about providers’ site commission payments, as described above. After all of the compliance dates have passed and the prohibition on site commissions is in effect for all IPCS contracts, the burden of completing the yes or no question should be minimal and the providers’ responses will help the Commission to monitor compliance with its site commission rule.

## **6. Disability Access and Related Considerations**

The revised instructions modify providers’ reporting obligations regarding the provision of TTY-based TRS and TTY-to-TTY calling for incarcerated people with hearing and speech disabilities, including any ancillary service charges that providers have assessed for or in connection with TTY-based calls. Consistent with the Bureaus’ proposal and the *2022 ICS Order*, providers are no longer required to report the number of dropped calls for TTY-based TRS or TTY-to-TTY calling, but are still required to report the number of calls and number of complaints related to TTY-based TRS and TTY-to-TTY calling. As the Commission explained in the *2024 IPCS Order*, the Commission had determined in the *2022 ICS Order* “that it was no longer necessary to collect data on dropped calls,” and so adopted corresponding modifications to 47 CFR 64.6060(a)(5)-(7). However, at the time the Commission adopted the *2024 IPCS Order*, the changes to those paragraphs “ha[d] not yet gone into effect,” as the Commission declined to “seek Paperwork Reduction Act review by the Office of Management and Budget until an order is released adopting any changes” to the annual reporting forms. Consequently, in

the *2024 IPCS Order*, the Commission retained the revised reporting requirements adopted in the 2022 ICS Order, but renumbered them as section 64.6060(a)(2)-(4).

Further, the revised instructions and the Excel template reflect the 2022 reforms to the Commission's rules. As noted above, this modification is consistent with the changes adopted in the *2024 IPCS Order*, which incorporated the modifications to the annual reporting requirements adopted in the *2022 ICS Order*. The "Disability Access" worksheet of the Excel template requires providers to report, on a facility-by-facility basis, for each of the six kinds of TRS authorized by the Commission, (1) whether the service was available for use at the facility during the reporting period, (2) the number of calls made using the service, and (3) the number of complaints regarding the service. The same information is now collected for point-to-point ASL video service and for TTY-to-TTY calling. TRS and the various kinds of TRS are defined in section 64.601 of the Commission's rules. The six kinds of TRS are: Internet Protocol Captioned Telephone Service (IP CTS); Internet Protocol Relay Service (IP Relay); Speech-to-Speech Relay Service (STS); Traditional (TTY-Based) TRS; Video Relay Service (VRS); and Non-Internet Protocol Captioned Telephone Service (Non-IP CTS).

Securus argues that the Commission should eliminate the columns seeking information regarding ancillary services in connection with TTY-based TRS or TTY-to-TTY calling, including the jurisdiction column. The Bureaus find that Securus's proposal would result in eliminating reporting of ancillary service charges associated with disability access entirely, leaving the Commission without the ability to monitor compliance. The Bureaus recognize, however, that the reporting of this information presents a significant burden on providers and the resulting data is of limited utility for the Commission. Accordingly, the Bureaus adopt less burdensome reporting instructions for ancillary service charges associated with billed TTY-to-TTY calling or TTY-based TRS that are similar to those used for such charges associated with audio IPCS and video IPCS. Providers need only respond to a "yes" or "no" question and complete a narrative response in the Word template if they assessed ancillary service charges

associated with billed TTY-to-TTY calling or TTY-based TRS after November 19, 2024. The reporting structure the Bureaus adopt for this category of information mirrors the same structure they adopt for audio IPCS and video IPCS for the period following the Nov. 19, 2024 effective date; the Bureaus instruct providers to report if they charge any associated ancillary service charges after the prohibition took effect, and if so, require them to report additionally in the Word template.

ViaPath expresses concern about the availability of certain information in connection with TRS-related calls. ViaPath explains that while “IPCS providers can report the types of TRS available in each facility, they may not have access to information regarding the number of TRS-related calls or complaints.” This is because “[d]eployment of advanced TRS capability in correctional facilities cannot be accomplished without a third-party TRS provider.” ViaPath suggests that the third-party TRS provider is “the appropriate entity from which to obtain information regarding the number of disability access communications in a correctional facility and any associated complaints.” The Commission’s IPCS rules apply to IPCS providers, not third-party TRS providers. IPCS providers must make all necessary contractual and technical arrangements for ensuring access to TRS, and such arrangements should include access to necessary data for ensuring the requirements for access and use of TRS are met. Given IPCS providers’ obligations under the Commission’s rules to ensure access to TRS, and the fact that TRS providers cannot provide their service without coordinating with IPCS providers, the Bureaus find that IPCS providers are in the best position to obtain and to report this information. To the extent they cannot, they are free to explain why they cannot do so in the Word template for the Commission’s consideration.

## **7. Other Issues**

*Revenue, Cost, Usage, or Similar Data for Video IPCS.* The Bureaus decline to collect data regarding the costs, revenues, usage or other similar categories of data for video IPCS through the Annual Reports. One commenter suggests that the Commission require the reporting

of a wide range of data designed to determine the costs associated with video IPCS, including cost, revenue, and usage data for all services provided on kiosks or tablets and data regarding the safety and security costs specific to the provision of video IPCS. Another commenter similarly argues that the Commission should require IPCS providers to submit, among other things, information about the use of kiosks and tablets for video calling and the breakdown between fixed and variable costs of providing IPCS. However, even to the extent that the Bureaus might find it appropriate to expand the Annual Reports to collect such data, it is not clear at this time that the benefit of collecting such data in this context would outweigh the burden it would impose, given, for example, the developing nature of the video IPCS market. Indeed, cost of service issues for video IPCS await further consideration by the Commission following the additional mandatory data collection that the Commission required in the *2024 IPCS Order*, and review of the record being developed in response to the request for comment accompanying the *2024 IPCS Order*. *Incarcerated People's Communication Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, 89 FR 77065, September 20, 2024. In these circumstances, the Bureaus find that the better course is to collect revenue, cost, usage, and similar data for video IPCS through the upcoming mandatory data collection, where, for example, they can provide detailed instructions on how providers should calculate their costs of providing video IPCS and any safety and security measures specific to the provision of video IPCS. Thus, the Bureaus decline to require reporting of such information in the Annual Reports at this time.

*Quality of Service.* For similar reasons, the Bureaus also decline to request quality of service data in the annual reports as some commenters suggest. This, too, is an issue pending further consideration by the Commission and is thus inappropriate for inclusion in the annual reporting requirements at this time.

*Payments from IPCS Providers to Correctional Facilities.* One commenter argues that the Bureaus should request data on payments from IPCS providers to correctional agencies for

used and useful costs they incur in the provision of IPCS as a means to better understand whether the Commission should adopt a uniform rate additive to account for used and useful correctional facility costs. As noted above, collecting what is in effect data on the costs incurred by correctional agencies to provide IPCS is beyond the scope of the Annual Reports, which are focused primarily on providers' rate data and compliance with Commission rules. The more appropriate setting for determining whether to collect such data would be in the context of the upcoming mandatory data collection. The Bureaus therefore decline to seek such information in the context of the Annual Reports at this time.

*Audited Financial Statements.* The Bureaus also decline to require IPCS providers to submit audited financial statements as part of their Annual Reports. The Wright Petitioners note that IPCS providers were required to submit audited financial statements as part of the 2023 Mandatory Data Collection. They argue that the financial statements "contain important information that can be helpful to the Commission's ongoing efforts to ensure that IPCS rates are just and reasonable and providers are fairly compensated." ViaPath argues that "[w]hile such information may have been appropriate for a Mandatory Data Collection to allow the Commission to review revenues, costs and expenses, such information is not needed to ensure compliance with the Commission's IPCS rules." The Bureaus agree that requiring audited financial statements, while appropriate in the context of a data collection to determine the costs of service, are not necessary for the Commission to determine compliance with its IPCS rules in the Annual Reports or to monitor trends in the industry.

*Excel Template and Certification Form.* The Excel template the Bureaus adopt includes other minor changes designed to help reduce burdens and minimize provider error when completing the worksheets. For instance, the template includes "drop-down" menus for data entry when there are only a few answer options. It also includes new cell formatting that restricts the data that can be entered (e.g., numbers vs. text), which should help prevent inadvertent errors when completing the forms. For the worksheets that include rates paid for IPCS calls to

international destinations, the Bureaus now require providers to enter their international destinations only once for each worksheet, instead of repeating this information multiple times on each worksheet. The Bureaus likewise adopt other minor updates to the certification form (e.g., inserting the word “Authorized” before “Officer”).

### **C. Extension of Filing Deadline**

On their own motion, the Bureaus waive section 64.6060(a) of the Commission’s rules for the limited purpose of granting a one-time extension of the filing deadline for the 2025 IPCS Annual Reports from April 1, 2025 to Monday, June 2, 2025. Generally, the Commission’s rules may be waived for good cause shown. In evaluating whether good cause exists for waiver of its rules, the Commission considers whether the particular facts make strict compliance inconsistent with the public interest. The Commission may also take into account concerns of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission’s rules is therefore only appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.

The Bureaus find good cause to waive section 64.6060(a) of the Commission’s rules to extend the deadline for filing the 2025 IPCS Annual Reports to June 2, 2025. Under the Commission’s rules, Annual Reports are due April 1 of each year. However, the Annual Reports that are due in 2025 will be the first Annual Reports for which IPCS providers will be required to use the revised instructions, templates, and certification forms adopted herein reflecting the Commission’s expanded authority over IPCS pursuant to the Martha Wright-Reed Act. The Annual Reports “enable the Commission to monitor and track trends in the IPCS marketplace, increase provider transparency, and ensure compliance with the Commission’s rules.” It is therefore vital that the Commission receive complete and accurate data to ensure IPCS rates are just and reasonable and IPCS providers are fairly compensated. Considering these objectives, the Bureaus find good cause to waive the Commission’s rules and extend the deadline for filing the 2025 Annual Reports. Doing so will make it more likely that the Commission receives

complete and accurate data enabling it to monitor IPCS providers' compliance with the Commission's IPCS rules. At the same time, given the timing of the release of this Order and the additional delay involved in obtaining approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of this revised data collection, extending the April 1 deadline to June 2, 2025 should give providers sufficient time to compile their data submissions using the revised instructions, templates, and certification forms.

#### **D. Effective Date and Implementation Date**

Because this Order imposes new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), its effective date will be dependent upon approval by the Office of Management and Budget (OMB). After such review, the Bureaus will publish a document in the Federal Register establishing the date of such publication as the effective date of the requirements adopted in this Order.

#### **IV. PROCEDURAL MATTERS**

*Supplemental Final Regulatory Flexibility Act Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Bureaus have prepared a Supplemental Final Regulatory Flexibility Analysis (FRFA) relating to this Order. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA). The Supplemental FRFA is set forth in section V below.

*Final Paperwork Reduction Act Analysis.* The Order contains new or modified information collection requirements subject to the PRA. It will be submitted to OMB for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, the Bureaus note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198; see 44 U.S.C. 3506(c)(4), the Bureaus previously sought

specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Bureaus have assessed the effects of the requirements for Annual Reports and certifications on small business concerns, including those having fewer than 25 employees, and find that to the extent such entities are subject to those requirements, any further reduction in the burden of the collection would be inconsistent with the objectives behind the collection.

*Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Order to the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

## **V. ANNUAL REPORTING AND CERTIFICATION INSTRUCTIONS AND TEMPLATES**

The instructions and templates for the Annual Report and certification form are available at this link: <https://www.fcc.gov/document/annual-report-instructions>.

## **VI. SUPPLEMENTAL FINAL REGULATORY FLEXIBILITY ANALYSIS**

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) was incorporated in DA 23-656, released in August 2023. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The Wireline Competition Bureau (WCB) and the Consumer and Governmental Affairs Bureau (CGB) (collectively, the Bureaus) sought written public comment on the proposals in DA 23-656 and DA 24-918, including comments on the Supplemental IRFA. No comments were filed addressing the Supplemental IRFA. The Bureaus received comments and reply comments on the proposals in DA 23-656 from Securus Technologies, LLC (Securus), Global Tel\*Link Corporation D/B/A ViaPath Technologies (ViaPath), and Pay Tel Communications, Inc. (Pay Tel). These comments are

addressed herein. The Bureaus received comments and reply comments on proposals in DA 24-918 from Securus, ViaPath, the Wright Petitioners, Worth Rises, Pay Tel, and the United Church of Christ Media Justice Ministry. This Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) conforms to the RFA.

**A. Need for, and Objectives of, the Order**

In the *2022 ICS Order*, the Commission adopted requirements that necessitated further changes to the Annual Reporting instructions, reporting templates, and certification form. These requirements improve access to communications services for incarcerated people with communication disabilities by, for example, requiring IPCS providers to list, at a minimum, 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 calling, point-to-point American Sign Language (ASL) 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 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. A provider that fell within the safe harbor was required to include a certification from an officer of the company stating which prong(s) of the safe harbor it had met. 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 delegated authority to the Bureaus to implement the expanded reporting obligations and to develop a reporting form that will most efficiently and effectively elicit the required information.

On January 5, 2023, the President signed into law the Martha Wright-Reed Act, which expanded the Commission's statutory authority over communications between incarcerated people and the non-incarcerated, including "any audio or video communications service used by

inmates . . . regardless of 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 Act, 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 the Act’s January 5, 2023 enactment date. 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.

Pursuant to the directive that the Commission implement the new Act and establish just and reasonable rates for IPCS services, the Commission released DA 23-19, seeking 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. The Commission also reaffirmed and updated its prior delegation of authority to the Bureaus to revise the instructions and reporting templates for the Annual Reports. Specifically, the Commission delegated to the Bureaus authority to modify, supplement, and update the instructions and templates for the Annual Reports. On August 3, 2023, in DA 23-656, the Bureaus sought comment on proposed revisions to the instructions and templates for the Annual Reports and annual certifications. In response, the Bureaus received comments from providers, public interest advocates, and other interested parties.

In July 2024, the Commission adopted the *2024 IPCS Order*, which implemented the expanded authority granted to the Commission by the Martha Wright-Reed Act. In that Order, the Commission revised its rules by, inter alia:

- Adopting permanent rate caps for audio IPCS and interim rate caps for video IPCS;
- Adopting new facility tiers for both audio and video IPCS;
- Prohibiting providers from imposing any ancillary service charges on IPCS consumers;
- Prohibiting providers from making site commission payments associated with IPCS;
- Allowing providers to offer alternate pricing plans for IPCS subject to certain conditions;
- Revising and strengthening existing consumer disclosure and inactive account requirements; and
- Revising and strengthening IPCS accessibility requirements for incarcerated people with disabilities.

The *2024 IPCS Order* also modified the scope and content of the Annual Reports to reflect the reforms adopted under the Martha Wright-Reed Act. The Commission expanded its annual reporting and certification requirements to include the full scope of services and providers now subject to the IPCS rules. The Commission also eliminated the sections of the annual reporting rules mandating the reporting of information on ancillary service charges and site commissions, to reflect the prohibition of those items adopted in the *2024 IPCS Order*. The Commission also retained the rules describing the reporting requirements concerning TRS and related communications services, but renumbered them. Finally, the Commission reaffirmed and updated its prior delegation of authority to the Bureaus to revise the Annual Reports, to reflect the Commission’s expanded authority under the Martha Wright-Reed Act and the other actions taken in the *2024 IPCS Order*, and directed that the Bureaus pay particular attention to the video IPCS marketplace and the availability and usage of Telecommunications Relay Services (TRS) in exercising this delegated authority.

Pursuant to this delegated authority, the Bureaus released DA 24-918 seeking to “expand and refresh the record on revisions to the Annual Report instructions, templates, and certification form, in addition to those proposed in DA 23-656, and to implement the modifications to the annual reporting and certification requirements adopted by the Commission in the *2024 IPCS*

*Order.*” The Bureaus also sought comment on “any additional modifications the Bureaus should consider to make these forms consistent with the new rules, including the varied compliance dates adopted in the *2024 IPCS Order.*” The Bureaus received comments from IPCS providers, public interest advocates, and other interested parties. Pursuant to its delegated authority, the Bureaus have prepared updates to the annual reporting and certification templates and is issuing the Order to adopt all aspects of these documents.

**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

There were no comments filed that specifically addressed the proposed rules and policies in the Supplemental IRFA.

**C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration**

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

**D. Description and Estimate of the Number of Small Entities to Which Annual Report and Certification Requirements Will Apply**

The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the annual report and certification requirements. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act. A “small-business concern” is one which: (1) is independently

owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

A Regulatory Flexibility Analysis was incorporated in DA 23-656. In this analysis, the Bureaus described in detail the small entities that might be affected. Accordingly, in this Order, for the Supplemental FRFA, the Bureaus hereby incorporate by reference the descriptions and estimates of the number of small entities from these previous Regulatory Flexibility Analyses.

**E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

The annual report and certification requirements direct IPCS providers to submit, among other things, data and other information on IPCS rates, communications, demand, operations, company and contract information, information about facilities served, revenues, site commission payments, and ancillary fees and to certify as to their compliance with relevant Commission rules. The Bureaus estimate that approximately 35 IPCS providers will be subject to this reporting requirement and it will take each provider approximately 160 hours to complete the annual report. The Bureaus also estimate that it will take each IPCS provider approximately 5 hours to review and certify its submission.

**F. Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered**

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation,

or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

The annual reporting and certification requirements impose a recurring obligation on providers. Because the Commission requires all IPCS providers to submit Annual Reports and certifications, the collection will affect smaller as well as larger IPCS providers. The Bureaus have taken steps to ensure that the reporting template is competitively neutral and not unduly burdensome for any set of providers and have considered the economic impact on small entities, as identified in comments filed in response to DA 23-656 and DA 24-918, in finalizing the instructions and reporting templates for the annual reports and certifications. In response to the comments, the Bureaus have refined and streamlined certain aspects of the instructions and reporting templates, including significantly reducing audio and video rate reporting requirements and eliminating detailed site commission and ancillary service charge reporting requirements. These modifications avoid unduly burdening responding providers while ensuring that providers have sufficiently detailed and specific instructions to respond to the data collection and that the Commission will continue to have access to the data necessary to monitor industry trends and industry compliance with its rules.

#### **G. Report to Congress**

The Commission will send a copy of the Order, including this Supplemental FRFA, in a report a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the Order, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order, and Supplemental FRFA (or summaries thereof) will also be published in the Federal Register.

### **VII. ORDERING CLAUSES**

Accordingly, it is ordered that, pursuant to the authority contained in sections 1, 2, 4(i)-(j), 155(c), 201(b), 218, 220, 276, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)-(j), 155(c), 201(b), 218, 220, 276, and 403, and the authority delegated pursuant to §§ 0.91, 0.201(d), and 0.291 of the Commission's rules, 47 CFR 0.91, 0.201(d), 0.291, this Order is adopted.

It is further ordered that, pursuant to the authority contained in sections 1, 2, 4(i)-(j), 155(c), 201(b), 218, 220, 276, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)-(j), 155(c), 201(b), 218, 220, 276, and 403, and the authority delegated pursuant to §§ 0.91, 0.201(d), 0.291, and 1.3 of the Commission's rules, 47 CFR 0.91, 0.201(d), 0.291, 1.3, the April 1, 2025 filing deadline for the 2025 Annual Reports is waived and is extended to June 2, 2025.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Order, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission

**Lynne Engledow,**

*Deputy Chief, Pricing and Policy Division,*

*Wireline Competition Bureau.*

[FR Doc. 2025-03142 Filed: 3/11/2025 8:45 am; Publication Date: 3/12/2025]