



## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 64**

**[WC Docket Nos. 12-375, 23-62; FCC 25-75; FR ID 319623]**

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

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) seeks additional comment and data from stakeholders on adopting permanent audio and video IPCS rate caps and on whether and how the Commission should refine its IPCS data collections going forward to provide the data needed to ensure rate caps are just and reasonable and fairly compensate IPCS providers. It also seeks comment on how and when the Commission should structure a permanent rate additive to account for the recovery of correctional facility costs incurred in making IPCS available, including an additive that potentially varies by facility type and size. Finally, it proposes to retain the prohibition on ancillary service charges previously adopted by the Commission and seeks further comment on this proposal. In the alternative, it seeks comment on a request to reinstate automated payment fees and third-party financial transaction fees as permissible ancillary service charges.

**DATES:** Comments are due on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**; and reply comments are due on or before **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested parties may file comments and reply comments on or before the dates indicated in this document in WC Docket Nos. 23-62 and 12-375 by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing

the Electronic Comment Filing System (ECFS):

<https://www.fcc.gov/ecfs/filings/standard>.

- *Paper Filers*: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
  - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
  - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities*. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov), or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

**FOR FURTHER INFORMATION CONTACT:** Shabbir Hamid, Pricing Policy Division of the Wireline Competition Bureau, at (202) 418–2328 or via email at [Shabbir.Hamid@fcc.gov](mailto:Shabbir.Hamid@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (*FNPRM*), in WC Docket Nos. 12-375 and 23-62, FCC 25-75,

adopted on October 28, 2025 and released on November 6, 2025. This summary is based on the public redacted version of the document, the full text of this document can be accessed electronically via the FCC's Electronic Document Management System (EDOCS) website at [www.fcc.gov/edocs](http://www.fcc.gov/edocs), or via the FCC's Electronic Comment Filing System (ECFS) website at [www.fcc.gov/ecfs](http://www.fcc.gov/ecfs), or is available at the following internet address:  
<https://docs.fcc.gov/public/attachments/FCC-25-75A1.pdf>.

## **SYNOPSIS:**

### **I. FURTHER NOTICE OF PROPOSED RULEMAKING**

1. In the Further Notice of Proposed Rulemaking (*FNPRM*), we seek additional comment and data from stakeholders on the following issues: adopting permanent audio and video IPCS rate caps; adopting a permanent rate additive for facility cost recovery, including one that varies by facility type and size; and maintaining the prohibition on ancillary service charges, among other matters. We place particular emphasis on seeking additional data from parties to the extent feasible to enable us to resolve these issues based on objective data and analysis, wherever possible.

#### **A. Adoption of Permanent Rate Caps for Audio and Video IPCS**

2. Today's Order adopts interim rate caps for audio and video IPCS, reflecting the evolving video IPCS marketplace and resulting anomalies in provider-reported video data, but also in recognition of the limitations of the available data on safety and security costs and of the cost data more generally. Meanwhile, commenters continue to acknowledge a need for permanent rate caps. We agree that permanent caps are necessary for IPCS and, accordingly, we seek further comment on how the Commission could best adopt permanent rate caps for audio and video IPCS which are just, reasonable, and fairly compensatory and the time frame for implementing any such rate caps.

3. *Permanent Audio IPCS Rate Caps.* The accompanying Order adopts audio IPCS rate

caps on an interim basis in light of the need to resolve questions with the current data, and to better refine and analyze safety and security data, among other factors. We invite further comment about how to adopt permanent audio IPCS rate caps, and about the data we need to allow us to do so. The Commission will be receiving more refined data about market rates and demand after recent revisions to the IPCS Annual Reports are implemented, and from a future mandatory data collection. On January 8, 2025 the Commission revised the IPCS annual reporting and certification obligations to require submissions of information related to video IPCS. The first filings of the revised Annual Reports and certifications that will include information on video IPCS were due on November 3, 2025. What additional information is essential to collect before the Commission can act to set permanent audio IPCS rate caps? Are any further changes to our rate cap setting methodology necessary?

4. *Permanent Video IPCS Rate Caps.* The accompanying Order adopts video IPCS rate caps on an interim basis for several reasons, including the aforementioned market and data factors. Significant time has passed since the Commission last sought comment on the adoption of permanent rate caps for video rates as part of the *2024 IPCS Notice* and the Bureau has since granted waiver petitions sought by IPCS providers to accommodate certain unintended consequences of the Commission's rate structure rules governing video IPCS. We now invite commenters to further supplement the record concerning the status of the video IPCS market and the adoption of permanent video IPCS rates. What changes have commenters observed in the video IPCS marketplace since the adoption of the *2024 IPCS Notice*? How have video market costs, prices, demand, revenues, deployment, and services changed over time?

5. How else has the video IPCS marketplace evolved with the passage of time? We seek comment on the changes in availability of and demand for video IPCS, and for other, non-IPCS video products, including the deployment of platforms and devices capable of delivering these services. For example, how has demand for video IPCS changed since the 2023 Mandatory Data Collection (reflecting 2022 data)? We also seek comment on how costs for providing video

IPCS and revenues for video IPCS have changed since the *2024 IPCS Notice*. Have per-minute costs declined as the market developed? What are the trends for video IPCS industry revenues and profitability, given potentially declining per-minute costs and increasing demand? How do costs for providing video IPCS differ between industry leaders, or between large providers and smaller providers? Similarly, what investments are IPCS providers making in video platforms and devices today, and how do those expenditures differ from recent years, if at all? And how should such trends factor into the adoption of permanent rate caps for video IPCS? What data could be used to project the rate of future investments in video software and hardware? Video IPCS platforms and devices typically enable the provision of both regulated video IPCS and nonregulated video services. We seek comment on how video IPCS providers recover shared costs between regulated and nonregulated services. Do commenters expect the usage of regulated and nonregulated services to change over time, and, if so, how should such trends be taken into account in adopting permanent video IPCS rate caps?

6. Commenters generally agree that the video IPCS marketplace is still in its nascent stages and investments in video IPCS infrastructure continue to be relatively high given current demand. We seek comment on the continued evolution of the video IPCS marketplace, and on the data that would most accurately reflect its growth and development. One commenter suggests three criteria which may indicate a maturing market: “comparing the variance of costs across video calling products with the variance of costs among audio calling products, comparing within-provider costs to those of market leaders, and analyzing forecast demand by service providers.” Are these effective ways of gauging whether the video IPCS marketplace has matured with sufficient reliability to set permanent video rates? If so, why? If not, what are the other alternatives? What additional data will best support these analyses, and how can we obtain such data, if it has not already been collected?

7. When do commenters expect the video IPCS marketplace will reach a point where the Commission will be able to set reliable permanent rate caps? Conversely, if commenters believe

the video IPCS data already allows us to adopt permanent rate caps, why? Certain commenters suggest permanent video IPCS rate caps should be adopted immediately. What advantages and disadvantages would there be from adopting permanent caps in the near future versus doing so at a later date? What are the costs and benefits of maintaining interim caps over a longer period to allow the marketplace to develop? How do the costs and benefits of delay versus immediacy translate to the adoption of permanent audio rate caps?

8. *Considerations Applicable to Both Audio and Video IPCS.* While our rate making methodology is largely a settled matter, we seek comment on a proposal to modify one aspect of the methodology. Specifically, we seek comment on Securus's proposal that the Commission use simple averages instead of minute-weighted averages to set its rate caps, noting that the *2021 ICS Order* used simple averages and claiming that "using minute-weighted average costs overemphasizes large facility costs." We also seek comment on Securus's claim that using simple, facility-based averages to set rate caps would "lead to a higher rate cap and more providers being able to recover their actual costs."

9. We seek additional comment on whether and how we should refine the IPCS data collections going forward, particularly in light of the recognized anomalies with IPCS data. Are any adjustments to the structure of the collection necessary to distinguish between necessary equipment and services costs? What other data are necessary, if any, for the Commission to consider establishing permanent, per-minute audio and video IPCS rate caps? In particular, should we attempt to collect data that would allow us to measure the effects future inflation and productivity increases will have on the average cost per minute of providing audio and video IPCS and rate caps and, if so, what data should we collect? How can the Commission ensure all video IPCS providers fully respond to any additional data collection?

10. Commenters should identify the relevant safety and security data and information necessary to set permanent IPCS audio and video rate caps, and should specify how the

Commission should seek to have such information reported. To what extent have audio and video IPCS safety and security services changed over time, and how should any such change impact the adoption of permanent audio or video IPCS rate caps? Are there any trends in safety and security expenses in the IPCS provider or private business sectors, and if so, how should they be accounted for when adopting permanent audio or video IPCS rate caps? For example, Zoom and Teramind offer safety and security add-ons (including listening to a call without the parties being aware and remote employee monitoring) as part of their business communications services.

11. We also seek comment on how providers recover shared costs for safety and security services between video and audio IPCS and between IPCS and non-IPCS services. What data would help the Commission to properly allocate such costs among these services? Should the categories used previously be adjusted and, if so, how? Should there be a larger, smaller, or the same number of categories as compared to the number in the 2023 Mandatory Data Collection, and how should each category be defined? Should the Commission exclude from rate caps any allowance for recovery of safety and security expenses attributable to law enforcement functions? The 2023 Mandatory Data Collection directed providers to allocate safety and security expenses among seven different categories and then to further allocate the expenses within each of these categories among (1) audio IPCS, (2) video IPCS, (3) ancillary services, and (4) other products and services. If we were to draw a line between safety and security expenses attributable to IPCS functions versus law enforcement functions, for example, could we simply retain the existing reporting structure and at the same time clarify that safety and security expenses are to be allocated to other products and services to the extent these are incurred as a consequence of providing law enforcement functions? Or would a better approach be to add law enforcement as a separate, fifth “service” to which safety and security expenses could be allocated? How might the Commission direct providers to allocate expenses shared between IPCS and law enforcement functions? Are there better approaches than our current category-

based approach to standardize the reporting and collection of safety and security cost data that commenters recommend? What other information should we seek concerning safety and security services which would help us determine just, reasonable, and fairly compensatory rates? Are there any factors related to safety and security expenses that primarily affect either audio or video rates alone, and if so, what are they, and why?

12. Likewise, we seek comment on any interaction or interdependence between audio IPCS and video IPCS offerings, including relationships between service pricing or usage. Will the continued video IPCS market evolution also affect the market for audio rates and, if so, how? Do providers expect demand for audio IPCS to fall as demand or availability of video IPCS increases? Should video IPCS be considered a substitute for audio IPCS? Additionally, when adopting permanent rate caps for either audio or video IPCS, how should the Commission factor in the recovery allotted to providers from a permanent rate additive for facility costs as proposed in this *FNPRM*, if any?

13. Parties note that correctional institutions are increasingly paying directly for IPCS and making service available to incarcerated people free of charge. They propose that the Commission address the applicability of its IPCS regulations to instances where a correctional institution is the party that pays for IPCS. Commenters note, for example, that in the “agency-paid model,” correctional institutions may use alternative units of sale, such as ADP, instead of per-minute rates to purchase IPCS. We seek comment on the applicability of our regulations to correctional institutions as, in effect, wholesale purchasers of IPCS. To what extent do the Martha Wright-Reed Act and the Communications Act provide legal authority to the Commission to regulate the rates and related conditions of IPCS when purchased by an intermediary for retail customers’ use?



## **B. Adoption of Permanent Rate Additives for Facility Cost Recovery**

14. We seek comment on how and when the Commission should structure a permanent rate additive or additives to account for correctional facility costs. In today's Order, we adopt a uniform interim rate additive of up to \$0.02 per minute for audio and video IPCS for all facility types and size tiers. Several commenters support the use of an additive, arguing that it will provide a predictable framework for IPCS providers and correctional authorities to ensure the recovery of correctional facility costs in the provision of IPCS. Do commenters agree? Why or why not? We seek comment on the assertion by one commenter that additives will effectively reintroduce site commissions and on the extent adopting a permanent rate additive may actually minimize market distortions the record shows site commissions can generate. The interim rate caps we set today are provider-related rate components, the revenues from which are not intended for facility cost recovery, which is the purpose of the separate rate additives we seek further comment on today. Pay Tel, however, cites the fact that the record shows that at least one provider sought to offer correctional facilities payments from rate cap revenues. We seek further comment on Pay Tel's request for clarification "that any site commissions in excess of the facility cost additive remain prohibited." What are the benefits and burdens of a rate additive for IPCS providers, correctional facilities, and IPCS consumers?

15. We also seek comment on how to structure a permanent rate additive. As an initial matter, we invite comment on whether a permanent additive should be a uniform cap across all rate tiers or whether it should vary by correctional facility type and/or size. What specific tasks, responsibilities and activities do correctional facilities undertake? What are the number of person hours and the hourly wage rates required to provide each activity and each activity's frequency of occurrence? Do these activities and their frequency and costs vary depending on the size or type of the facility, the volume of calls, the correctional authority's policies, or other factors and, if so, how should the Commission incorporate those variations into any permanent rate additive? We also seek comment on a recommendation by one commenter that "IPCS

providers that incorporate any facility additive [with] the rate and compensate facilities accordingly must document those costs before such a payment could be imposed on or charged to the paying customer.” Additionally, should providers be required to demonstrate that any expenses being recovered through the rate additive be for used and useful expenses incurred in making IPCS available?

16. The interim per-minute rate additive we adopt today applies uniformly to all rate tiers, in principal part due to the lack of reliable correctional facility cost data currently in the record beyond the National Sheriffs’ Association 2015 cost survey. The Commission previously has highlighted that “[o]btaining reliable correctional facility cost data has been a perennial problem in these proceedings.” As we explain above, the record lacks the requisite data that would allow the Commission to reasonably justify a variable additive based on facility type or size. Yet, the National Sheriffs’ Association argues that a rate additive “cannot be uniform because the costs to facilities are not uniform” but provides no data or other information regarding costs beyond what was previously submitted in the record. As Securus notes, the “[k]ey to establishing a reasonable rate additive is gaining up-to-date information on facility costs.” We agree and invite further comment on how we can ensure we receive current, complete, and reliable data that accurately capture the differences in used and useful costs that facilities of different sizes and types incur. We request commenters address in detail the types of data that would be most useful in determining facility costs and the procedures we should follow in collecting the data.

17. To the extent commenters support a permanent rate additive that varies by facility type and size, we underscore the importance of receiving updated, relevant data in the record given that correctional facilities are not regulated entities subject to data retention requirements, as commenters have recognized. Securus suggests that while “the Commission cannot compel correctional agencies to provide such information, the Commission could facilitate the voluntary submission of such information by creating a simple and straightforward template by which

correctional agencies could submit information on the costs they incur.” The Commission has not previously considered undertaking the design of a template given its inability to compel the submission of facility cost data by correctional institutions. However, the Commission seeks comment on whether it should consider doing so. Apart from creating a template, what categories of cost information should correctional institutions submit and how can the Commission best work with providers and correctional institutions to encourage the submission of reliable and consistent cost data? If we engage in a voluntary collection, how should we evaluate the data received to determine if it is a representative sample appropriate for use in this regulatory context? Are there other sources of data or methods of collection that we should consider?

18. To the extent commenters support a uniform additive, should we make the interim \$0.02 per minute additive adopted in today’s Order permanent? Why or why not? If \$0.02 per minute would not be a reasonable permanent uniform additive, are there data that the Commission could rely on that would support adopting a different amount? For example, a limited survey conducted by Pay Tel’s outside consultant, which consisted of only 30 correctional facilities, reported an average cost to facilities of \$0.08 per minute for allowing the provision of IPCS. The Commission gave no weight to this survey in the *2024 IPCS Order* and we do not give any weight to it today in adopting the \$0.02 per minute interim additive for the same reasons articulated in the *2024 IPCS Order*. However, Pay Tel’s outside consultant argued that with this limited survey “and previously-submitted data, the Commission has the information necessary to adopt a rate cap that includes an explicit additive for the recovery of facility-incurred safety and security costs.” Pay Tel neither identifies the “previously-submitted data” nor explains how its survey might fit with those data to arrive at a rate additive. We invite comment on these issues. Here, too, the receipt of reliable, current cost data is paramount and commenters are encouraged to provide data and analysis supporting any such proposal. If the Commission does not receive any such data, how should the Commission proceed?

### **C. Continued Prohibition of Ancillary Service Charges**

19. Ancillary service charges have long been a source of detrimental practices in the IPCS market and imposing constraints on such fees has been an integral part of the Commission's attempts to ensure just and reasonable IPCS rates. The Commission has taken steps on several occasions to set limits on ancillary service charges and associated practices. Most recently, in the *2024 IPCS Order*, the Commission prohibited ancillary service charges and instead incorporated the costs providers reported incurring to make these services available in the rate caps it adopted. In its Petition for Reconsideration, HomeWAV seeks reinstatement of two previously permissible ancillary service charges—automated payment fees and third-party financial transaction fees.

20. We propose retaining, for the same reasons the Commission articulated in the *2024 IPCS Order*, the prohibition on ancillary service charges adopted by the Commission and seek comment on this proposal. As the Public Interest Parties explain, the Commission made a determination in the *2024 IPCS Order* “that eliminating separate ancillary service charges and incorporating” the costs of those services “into the per-minute rate caps would best reflect the nature of such services as an intrinsic part of IPCS and balance the relevant interests at stake.” Do commenters agree with this assessment? Why or why not? Would the benefits of retaining the prohibition on separate ancillary service charges outweigh the burdens? Why or why not?

21. However, to be thorough, we seek comment on HomeWAV's request that we reinstate automated payment fees and third-party financial transaction fees as permissible ancillary service charges. Automated payment fees include a wide variety of fees assessed by IPCS providers for most, if not all, financial transactions with consumers. Third-party financial transaction fees include credit card processing fees and fees for transfers from third-party commissary accounts. We seek comment on whether these two ancillary charges should be reinstated and on the appropriate regulatory treatment of ancillary service charges generally.

22. In comments to HomeWAV’s Petition for Reconsideration, Securus questions if the Commission contemplated whether the number of transactions would increase due to the removal of minimum deposit amounts and account funding fees, and what impact the potential increase of transactions would have on overall costs that would need to be recovered. Pay Tel adds that prohibiting these two ancillary service charges “will encourage behavior that increases . . . costs—and under the new rate structure, these costs will not be recoverable.” HomeWAV further asserts that “imposing all associated [automated payment fees and third-party financial transaction fee] costs solely on the provider” could “lead to operational disruptions and compromise the long-term sustainability of providers.”

23. We seek comment on whether providers are able to recover their costs of providing account funding services without being able to charge separate fees—under the rate caps set by the Commission in the *2024 IPCS Order*, the current interim rate caps we set here, or under any permanent rate caps we adopt—and what impact the prohibition on these fees may have on the sustainability of IPCS providers. In the *2024 IPCS Order*, the Commission found that providers incurred an average cost of \$0.011 per minute to provide ancillary services, based on the 2023 Mandatory Data Collection. We now seek comment and additional data on the amount of additional costs providers incur in making these two ancillary services available in the absence of being able to assess separate charges for them. We also seek comment on the potential burden of such costs.

24. If either fee or both fees should be reinstated, at what amount should the related fee cap or caps be set, and why? The Commission previously established a \$3.00 cap on automated payment fees and a \$5.95 cap on third-party financial transaction fees. Should we reimpose the same caps on these two fees previously imposed or should we set different caps? At what level would a cap or caps allow providers to recover their costs? At what level would a cap or caps be just and reasonable for consumers? Subsequent to its petition, HomeWAV advocates in favor of \$3.00 “payment processing fees.” We seek comment on this suggestion. Should the

Commission use the cost data providers report in a subsequent data collection to calculate different, cost-based caps for one or more of the two fees if necessary to reflect any increased usage rates providers are experiencing? Would setting fee caps based on those data overstate costs, if fees are reinstated and demand for the services is reduced?

25. While HomeWAV requests reinstatement of automated payment fees and third-party transaction fees, other providers suggest different fees should also be reinstated. For example, NCIC proposes reinstating certain transaction fees, including a live agent fee and a single call fee, but also proposes the elimination of certain other transaction fees. We seek comment on whether any other fees should be reinstated, and we request that any proposals for reinstating other ancillary service charges address the issues raised here with regard to automated payment fees and third-party transaction fees. We seek comment specifically on alternative proposals made by NCIC. NCIC's alternative proposals include suggesting the establishment of a \$3.00 funding fee for automated, web, and app payments, a \$5.95 funding fee for payments making use of a live agent, a \$0.25 funding fee for single calls or a ban on single call service, and deposit limits for minimums set at \$5.00 and maximums set at \$100.00. NCIC proposes to re-establish single-call fees, albeit at the rate of \$0.25 per call and provides the option to ban single-call services outright. We also seek comment on the potential burden of such costs.

26. If the Commission were to reinstate one or more ancillary service charges, it will need sufficiently reliable cost and demand data on each of the types of service charges that is reinstated in order to determine the relevant costs for each such charge. What changes, if any, to the Commission's reporting requirements, including to a future mandatory data collection and to its ongoing IPCS Annual Reports, should we consider to more accurately capture up-to-date ancillary service costs and demand, including the costs incurred when consumers fund their IPCS accounts?

27. We also seek comment on how automated payment fees and third-party financial transaction fees could be reinstated without unduly burdening consumers. Commenters have previously voiced concerns that automated payment fees and third-party financial transaction fees were often exploited, and consumers were charged both fees for a single transaction, effectively allowing providers to double bill or recover. How could the Commission redefine these charges to avoid such concerns? We also seek comment on how implementing two separate financial transaction charges can protect consumers from unfair charges as HomeWAV suggests. Similarly, we seek comment on other concerns raised related to ancillary service charges, including the risk of consumer fraud and money laundering and the risk that the combination of the prohibition of ancillary service charges with the prohibition of account minimums create conditions that encourage consumers to “inundate providers with small deposits,” which can “drastically increase costs for providers.” HomeWAV argues that the existence of fees to fund IPCS accounts serve as a deterrent to fraud and money laundering by “associating an appropriate cost with the deposit of funds” and that, if IPCS accounts are loaded using credit cards that are later determined to be stolen, then IPCS providers are responsible for “chargebacks, bank fees, and licensing costs.”

28. We also seek comment as to whether there are any similarly effective alternatives to reinstating automated payment fees and third-party financial transaction fees. For example, Securus suggests that the Commission allow IPCS providers to establish a minimum deposit amount. We seek comment on this proposal. Is this a reasonable alternative that will change consumer incentives and reduce provider costs? What amount would be appropriate as a potential minimum deposit limit and why? Securus suggests \$10, but others suggest lower minimums. How should the Commission calculate a minimum deposit amount if it chooses this alternative approach? For example, would a minimum deposit limit of \$10 provide enough stability to provider costs to offset the burden of prohibiting these types of fees? Conversely, we also seek comment on the burden that a minimum deposit amount would impose on families of

incarcerated people and IPCS users. Commenters are encouraged to quantify the costs and benefits to providers, IPCS users and their families, of any alternative approaches to fee reinstatement.

## **II. PROCEDURAL MATTERS**

29. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”

30. The Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy change proposals in the *2025 IPCS Notice* on small entities. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the *2025 IPCS Notice* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

31. *Paperwork Reduction Act (PRA).* This document does not contain proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501-3521. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, 44 U.S.C. 3506(c)(4).

32. *Providing Accountability Through Transparency Act.* Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of the *2025 IPCS NPRM* will be available on <https://www.fcc.gov/proposed-rulemakings>.

33. *OPEN Government Data Act.* The OPEN Government Data Act, requires agencies to make “public data assets” available under an open license and as “open Government data assets,” *i.e.*, in machine-readable, open format, unencumbered by use restrictions other than



intellectual property rights, and based on an open standard that is maintained by a standards organization. This requirement is to be implemented “in accordance with guidance by the Director” of OMB. The term “public data asset” means “a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclosure under the Freedom of Information Act (FOIA).” A “data asset” is “a collection of data elements or data sets that may be grouped together,” and “data” is “recorded information, regardless of form or the media on which the data is recorded.” We delegate authority to the Wireline Competition Bureau, in consultation with the agency’s Chief Data and Analytics Officer and after seeking public comment to the extent it deems appropriate, to determine whether any data assets maintained or created by the Commission pursuant to the rules adopted in the *2025 IPCS Order* are “public data assets” and if so, to determine when and to what extent such information should be published as “open Government data assets.” In doing so, WCB shall take into account the extent to which such data assets should not be made publicly available because they are not subject to disclosure under the Freedom of Information Act. *See, e.g.,* 5 U.S.C. 552(b)(4), (6)-(7) (exemptions concerning confidential commercial information, personal privacy, and information compiled for law enforcement purposes, respectively). We also seek comment in the *2025 IPCS Notice* on whether any of the information proposed to be collected in the Notice would constitute “data assets” for purposes of the OPEN Government Data Act and, if so, whether such information should be published as “open Government data assets.”

34. *Comment Period and Filing Procedures.* Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings must refer to WC Docket Nos. 23-62 and 12-375.

35. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply

with § 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to use a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the *2025 IPCS Notice* in order to facilitate our internal review process.

36. *Ex Parte Rules.* The proceeding that the *2025 IPCS Notice* initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in the prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

37. *People with Disabilities.* 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](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530.

38. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS.

### **III. INITIAL REGULATORY FLEXIBILITY ANALYSIS**

39. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the Further Notice of Proposed Rulemaking (*FNPRM*) assessing the possible significant economic impact on small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *FNPRM*. The Commission will send a copy of the *FNPRM*, including this IRFA, to the Chief Counsel for the Small Business Administration Office of Advocacy (SBA). In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the *Federal Register*.

#### **A. Need for, and Objectives of, the Proposed Rules**

40. In the *FNPRM*, the Commission seeks additional comment on establishing permanent, just and reasonable, and fairly compensatory rate caps for audio and video incarcerated people's communications services (IPCS). The Commission requests comment on what information and changes to its rate setting methodology will be needed to allow the adoption of permanent rate caps for audio IPCS, among other matters. The Commission also requests comment regarding the status of the video IPCS market and how costs, prices, revenues, and services have changed over time. Additionally, the Commission requests information on the evolution of the video IPCS marketplace and on when it will be able to set reliable permanent video IPCS rate caps. Further, the Commission seeks comment on matters applicable to both audio and video IPCS, including how it should collect data, how safety and security services

have changed over time, and the relationship of audio IPCS pricing and usage to video IPCS pricing and usage.

41. The Commission also seeks comment on whether it should adopt a permanent rate additive to account for correctional facility costs related to the provision of IPCS and on how to structure such a rate additive. The Commission also asks whether a permanent rate additive should be uniform across all rate tiers or whether it should vary by correctional facility type and/or size. Further, the Commission asks how it can obtain updated, relevant data on correctional facilities' costs given that facilities are not regulated entities subject to data retention and accounting requirements. The Commission seeks comment on whether it should make the interim \$0.02 per-minute uniform rate additive permanent.

42. The Commission also seeks comment on how it should address site commission payments made by IPCS providers to the facilities they serve. Specifically, the Commission proposes to retain the prohibition on site commission payments and seeks comment on the extent to which its adoption of an industry-wide, per-minute rate additive, either uniform or non-uniform, would eliminate any need for site commission payments. The Commission asks whether facilities could use a rate additive to recover their used and useful costs of allowing access to IPCS in lieu of, or in addition to, site commission payments. Alternatively, the Commission seeks comment on whether, if the Commission were to permanently allow providers to pay site commissions, it should cap or otherwise limit to the amount or type of site commissions providers may pay. Additionally, the Commission seeks comment on the appropriate timeframe for compliance with any site commissions reforms that may be adopted in response to the *FNPRM*.

43. The Commission also seeks comment on its proposal to retain the prohibition on ancillary service charges adopted in the *2024 IPCS Order*. The Commission also seeks comment on whether the benefits of retaining the prohibition on separate ancillary service charges would outweigh the burdens. Further, the Commission seeks specific comment on two types of

ancillary service charges—automated payment fees and third-party financial transaction fees—and asks whether they should be reinstated. Lastly, the Commission seeks comment on whether any alternatives to reinstating automated payment fees and third-party financial transactional fees exist.

## **B. Legal Basis**

44. The proposed actions are authorized pursuant to sections 1, 2, 4(i)-(j), 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), 201(b), 218, 220, 225, 255, 276, 403, 617, and the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Pub. L. 117-338, 136 Stat. 6156 (2022).

## **C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply**

45. 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 proposed rules, if adopted. 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 Small Business Act. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

46. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the

United States, which translates to 34.75 million businesses. Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and not dominant their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

47. The rules proposed in the *FNPRM* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the proposed rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

**Table 1: 2022 U.S. Census Bureau Data by NAICS Code**

| <b>Regulated Industry<br/>(Footnotes specify<br/>potentially affected<br/>entities within a<br/>regulated industry<br/>where applicable)</b> | <b>NAICS<br/>Code</b> | <b>SBA Size<br/>Standard</b> | <b>Total<br/>Firms</b> | <b>Total<br/>Small<br/>Firms</b> | <b>% Small<br/>Firms</b> |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|------------------------------|------------------------|----------------------------------|--------------------------|
| All Other<br>Telecommunications                                                                                                              | 517810                | \$40<br>million              | 1,673                  | 1,007                            | 60.19%                   |
| Wired<br>Telecommunications<br>Carriers                                                                                                      | 517111                | 1,500<br>employees           | 3,403                  | 3,027                            | 88.95%                   |
| Wireless<br>Telecommunications<br>Carriers (except Satellite)                                                                                | 517112                | 1,500<br>employees           | 1,184                  | 1,081                            | 91.30%                   |
| Telecommunications<br>Resellers                                                                                                              | 517121                | 1,500<br>employees           | 955                    | 847                              | 88.69%                   |

**Table 2: Telecommunications Service Provider Data**

| 2024 Universal Service Monitoring<br>Report Telecommunications Service<br>Provider Data<br>(Data as of December 2023) | SBA Size Standard<br>(1500 Employees)                      |                                    |                                    |
|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|------------------------------------|------------------------------------|
|                                                                                                                       | Affected Entity                                            | Total # FCC<br>Form 499A<br>Filers | Small<br>Firms<br>% Small Entities |
|                                                                                                                       | Competitive Local Exchange Carriers<br>(CLECs)             | 3,729                              | 3,576<br>95.90                     |
|                                                                                                                       | Incumbent Local Exchange Carriers<br>(Incumbent LECs)      | 1,175                              | 917<br>78.04                       |
|                                                                                                                       | Interexchange Carriers (IXCs)                              | 113                                | 95<br>84.07                        |
|                                                                                                                       | Local Exchange Carriers (LECs)                             | 4,904                              | 4,493<br>91.62                     |
|                                                                                                                       | Local Resellers                                            | 222                                | 217<br>97.75                       |
|                                                                                                                       | Other Toll Carriers                                        | 74                                 | 71<br>95.95                        |
|                                                                                                                       | Payphone Service Providers                                 | 28                                 | 24<br>85.71                        |
|                                                                                                                       | Toll Resellers                                             | 411                                | 398<br>96.84                       |
|                                                                                                                       | Telecommunications Resellers                               | 633                                | 615<br>97.16                       |
|                                                                                                                       | Wired Telecommunications Carriers                          | 4,682                              | 4,276<br>91.33                     |
|                                                                                                                       | Wireless Telecommunications Carriers<br>(except Satellite) | 585                                | 498<br>85.13                       |

**D. Description of Economic Impact and Projected Reporting, Recordkeeping, and  
Other Compliance Requirements for Small Entities**

48. The RFA directs agencies to describe the economic impact of proposed rules on



small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

49. In the *FNPRM*, the Commission seeks comment on a series of matters whose resolution will affect all IPCS providers and correctional facilities, including those that may be small entities. These matters include whether the Commission should establish permanent audio and video IPCS rate caps for all types of facilities (including jails with average daily populations below 1,000) and whether the Commission should adopt a permanent IPCS rate additive to account for correctional facility costs and how to structure a permanent rate additive. In considering how to allocate IPCS providers' costs, the Commission seeks comment on how these costs should be divided between regulated and nonregulated costs. In addition, the Commission seeks to identify the relevant safety and security data necessary to set permanent IPCS rate caps. The Commission also seeks comment on whether it should continue to prohibit site commission payments and ancillary service charges given its other actions with regard to IPCS, and whether any such changes should result in additional annual reporting requirements.

50. The Commission anticipates that all IPCS providers, including those that are small entities, will be subject to any rules adopted in response to the *FNPRM* and that such rules will not affect small providers disproportionately. The Commission requests comment on the appropriate amount of time needed for ICPS providers to comply with the proposed rules, including time needed to negotiate with correctional facilities to implement any of the proposed changes. In addition, the Commission expects that all IPCS providers, including those that are small entities, will need to hire, or retain the services of, lawyers and other professionals to ensure they comply with the proposed rules. The Commission anticipates that the information it receives in comments will help it identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from implementation of the proposals and inquiries in the *FNPRM*.

## **E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities**

51. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: “(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 rule 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.”

52. In the *FNPRM*, the Commission seeks to continue its implementation of the Martha Wright-Reed Act, including its directive that the Commission ensure just, reasonable, and fairly compensatory rates and charges for incarcerated people’s audio and video communications services. While doing so, the Commission seeks comment on a number of alternatives to determine the potential impact of the proposals in the *FNPRM* on small businesses and, in particular, any disproportionate impact or unique burdens that small businesses may face in complying with any rules the Commission may adopt. This includes whether and how to determine the evolution of the video IPCS marketplace, and how the data may be used to set permanent rate caps. Other alternatives considered in the *FNPRM* include whether and how to structure a permanent rate cap additive while continuing the prohibition on site commission payments, and the associated burdens that may result for IPCS providers, correctional facilities, and IPCS consumers. Alternatively, should site commissions be permitted, the Commission seeks comment on whether there should be a cap on such payments.

53. In evaluating the proposals in the *FNPRM*, the Commission will consider the information submitted regarding the costs small providers incur in the provision of audio and video IPCS, as well the costs and benefits of those proposals and any alternatives to those

proposals suggested in the record. Considering the economic impact on any IPCS providers that are small entities through comments filed in response to this *FNPRM* and this IRFA could allow the Commission to refine its cost-benefit analysis and provide other input that would enable it to identify reasonable alternatives that may not be readily apparent, and offer alternatives not already considered that could minimize the economic impact on small entities.

**F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

54. None.

**IV. ORDERING CLAUSES**

55. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 2, 4(i)-(j), 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), 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 (2022), that this joint Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking in WC Docket Nos. 23-62 and 12-375 ARE ADOPTED.

56. IT IS FURTHER ORDERED that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Further Notice of Proposed Rulemaking on or before 30 days after publication of a summary of this Further Notice of Proposed Rulemaking in the *Federal Register* and reply comments on or before 60 days after publication of a summary of this Further Notice of Proposed Rulemaking in the *Federal Register*.

57. IT IS FURTHER ORDERED that the Commission's Office of the Secretary, SHALL SEND a copy of this Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis and the Final

Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

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