

SUPPORTING STATEMENT

This submission is being made pursuant to 44 U.S.C. § 3507 of the Paperwork Reduction Act of 1995 to revise an existing information collection in order to obtain Office of Management and Budget (OMB) approval for the full three-year clearance.

Justification:

Circumstances that make the collection necessary:

1. Inmate Calling Services (ICS) allow incarcerated people to make calls to individuals outside the correctional facilities where they are being held, regardless of the technology used to deliver the service. Section 201 of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 201(b), requires that ICS providers' interstate and international rates and practices be just and reasonable. Section 276 of the Act, 47 U.S.C. § 276, requires that payphone service providers (including ICS providers) be fairly compensated for completed calls.

Annual Reports. In the *2015 ICS Order*,¹ the Commission undertook comprehensive reform of the ICS marketplace. To enable the Commission to monitor and track trends in the ICS marketplace, increase provider transparency, and ensure compliance with the Commission's rules, the Commission required all ICS providers to file Annual Reports providing ICS rate data and other information on their ICS operations.² Pursuant to the authority delegated to it by the Commission in the *2015 ICS Order*,³ the Wireline Competition Bureau (Bureau) created a standardized reporting template (FCC Form 2301(a)),⁴ as well as instructions to guide providers through the reporting process. The instructions explained the reporting and certification requirements.⁵

Certification Requirement. The Commission also required that an officer of each ICS provider certify annually as to the accuracy of the data and other information submitted in the provider's Annual Report. Pursuant to its delegated authority,⁶ the Bureau created a form (FCC Form 2301(b)) and related instructions for this certification, which also requires that the officer certify as to the provider's compliance with the Commission's ICS rules.

Consumer Disclosure Requirements. The Commission further required ICS providers to disclose to consumers their interstate, intrastate, and international rates and ancillary service charges on their websites or in another reasonable manner readily available to consumers.⁷ The Commission did not

¹ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Second Report and Order and Third Further Notice of Proposed Rulemaking, 30 FCC Rcd 12763 (2015) (*2015 ICS Order*).

² *2015 ICS Order*, 30 FCC Rcd 12763, 12892, paras. 9, 267-68; see also 47 CFR § 64.6060(a).

³ *2015 ICS Order*, 30 FCC Rcd at 12891, para. 267.

⁴ See generally ICS Annual Reporting Form (2017-2019), <https://www.fcc.gov/general/ics-data-collections>; ICS Annual Reporting Certification Form (2017-2019), <https://www.fcc.gov/general/ics-data-collections>.

⁵ ICS Annual Reporting Form Instructions (2017-2019), <https://www.fcc.gov/general/ics-data-collections>.

⁶ *2015 ICS Order*, 30 FCC Rcd at 12891, para. 267.

⁷ 47 CFR § 64.6110.

dictate the precise form of the consumer disclosure, but stated that it would evaluate disclosures for reasonableness based on a number of factors, including disclosure of information regarding all material charges and use of plain language that can be readily understood by end users.

In 2020, the Commission revised the instructions and template for the Annual Reports in order to improve the quality of the information collected.⁸ These revisions reflected formal and informal input from ICS providers, as well as the Commission's staff's experience in analyzing the Annual Reports. The amended instructions were clearer than the original instructions and resulted in Annual Reports that were easier to understand and analyze.

On May 24, 2021, the Commission released the *2021 ICS Order*,⁹ in which it revised its rules by adopting, *inter alia*, lower interim rate caps for interstate 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-prescribed site commissions.¹⁰ These rule changes necessitated further changes to the annual reporting and certification templates, which the Wireline Competition Bureau proposed in a *December 2021 Public Notice*.¹¹ In response to the *Public Notice*, the Bureau received comments from ICS providers, public interest advocates, and other interested parties.

Pursuant to its delegated authority, the Bureau released an Order on June 24, 2022 adopting revised instructions and templates for ICS providers' annual reports and certifications.¹² As the Bureau explained, the instructions and templates largely adopted the proposals contained in the *December 2021 Public Notice*, "with certain minor refinements and reevaluations responsive to comments filed in response to that *Public Notice*."¹³ Further, the Bureau stated that it expected the detailed instructions and templates it adopted to result in reports "that provide the Commission, its state counterparts, and the public with a clearer, more complete picture of ICS providers' operations than was available under prior annual reports, without unduly increasing burdens on providers."¹⁴ The Bureau explained that the

⁸ See OMB Control Number 3060-1222, December 2019 (approved by OMB on Jan. 1, 2020). See *Wireline Competition Bureau Announces OMB Renewal of Information Collection Concerning Inmate Calling Services*, WC Docket No. 12-375, Public Notice, 35 FCC Rcd 1456 (WCB 2020).

⁹ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking, 36 FCC Rcd 9519 (2021) (*2021 ICS Order*).

¹⁰ See *2021 ICS Order*, *passim*. The revisions also included expanded consumer disclosure requirements. In particular, the Commission required ICS providers to clearly label all charges for international calls as separate line items on consumer bills, and specified that the bills must identify the amount charged to the consumer for the international call, including the amounts paid by the provider to its underlying international providers to terminate the international call to the international destination of the call. The Commission also added new requirements for ICS providers that seek waiver of the Commission's interstate and international caps. On January 24, 2022, OMB approved the revised consumer disclosure requirements and new waiver request reporting requirements. 47 CFR §§ 64.6110(a); 64.6110(b)(1)-(4); 64.6110(c); and 64.6120. See Federal Communications Commission, Information Collection Approved by the Office of Management and Budget, 87 FR 7955 (Feb. 11, 2022).

¹¹ *Wireline Competition Bureau Seeks Comment on Revisions to Annual Reporting and Certification Requirements for ICS Providers*, WC Docket No. 12-375, Public Notice, DA 21-1583 (WCB Dec. 15, 2021) (*December 2021 Public Notice* or *Public Notice*).

¹² *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Order, DA 22-676 (WCB June 24, 2022) (*Annual Reports Adoption Order*).

¹³ See *Annual Reports Adoption Order* at para. 1.

¹⁴ *Id.* at para. 4.

changes it was making to the instructions and template “will make ICS providers’ rates, ancillary charges, and practices more transparent and, through that increased transparency, help ensure compliance with the Commission’s ICS rules.”¹⁵

Under the Bureau’s Order, ICS providers must continue to submit all reports using the electronic template provided by the Commission, and to provide the data in a machine-readable, manipulatable format. The reporting requirements cover the general categories of information proposed in the *December 2021 Public Notice*. These categories include the submission of information on facilities served; interstate, intrastate, and international ICS rates; ancillary service charges; site commissions; and disability access, among other matters. Collectively, the revised instructions and reporting template more precisely target the information to be collected than did the prior instructions and templates, and will increase the transparency of ICS providers’ operations and simplify providers’ compliance with the reporting requirements.

We estimate that approximately 20 ICS providers will file Annual Reports and Certifications each year using the revised instructions and template.

Statutory authority for this information collection is contained in sections 1, 4(i)-4(j), 201(b), 218, 220, 225, 255, 276, 403, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i-j), 201(b), 218, 220, 225, 255, 276, 403 and 617.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The information requirements set forth below ensure that the Commission has access to the information it needs to fulfill its statutory and regulatory duties, while minimizing the burden on ICS providers. Requiring ICS providers to file Annual Reports and Certifications will help the Commission discharge its statutory mandates regarding ICS. The Annual Reports also will provide incarcerated people, their families, their representatives, and the general public with access to information affecting the provision of interstate and international ICS.

3. This collection involves the use of informational technology to permit the electronic submission of responses. In particular, the Commission directed staff to develop a standardized template for the submission of the Annual Reports and to provide instructions to simplify compliance with, and reduce the burden of, the information requirements related to those reports. The template includes instructions and both text fields and spreadsheet cells for respondents to use to report the required data. Providers are directed to file their Annual Reports and certifications electronically using the Commission’s Electronic Comment Filing System (ECFS).

4. The Commission is not aware of any similar information already available that can be used or modified for the purposes described in Item 2 above. The annual reports prepared in accordance with the revised instructions should provide the Commission, its state counterparts, and the public with a more complete picture of ICS providers’ operations than was available under the prior annual reports without unduly increasing the burdens on providers.

5. Because the Commission requires all ICS providers to comply with the Annual Report and Certification requirements, this information collection will affect smaller as well as larger ICS

¹⁵ *Id.*

providers. The Commission has taken steps to ensure that the reporting templates are competitively neutral and not unduly burdensome for any set of providers.

6. Collecting the information on a less frequent basis, or not at all, would undermine the Commission's efforts to ensure that interstate and international ICS is provided at just and reasonable rates and to ensure that any ancillary services charges associated with interstate and international ICS are also just and reasonable. It would also deprive consumers and other affected parties of the ability to monitor ICS quality, rates, and fees. Finally, not requiring ICS providers to inform customers fully of providers' charges would prevent customers from making informed decisions on whether to proceed with ICS calls.

7. No other special circumstances will apply to this information collection.

8. Pursuant to 5 C.F.R. § 1320.8 (d), on January 14, 2022 the Commission published a 60-day notice in the Federal Register seeking public comment (87 FR 2432). No comments were received.

9. The Commission does not anticipate providing any payment or gift to respondents.

10. The *Protective Order* adopted in the Commission's ICS proceeding provides confidential treatment for the proprietary information submitted by ICS providers in response to Commission directives.¹⁶ The Commission will treat as presumptively confidential any particular information identified as confidential by the provider, in accordance with the Freedom of Information Act and Commission rules. Each confidential document should be stamped and submitted to the Secretary's Office with an accompanying cover letter, as specified by the *Protective Order*. This is standard practice when the Commission seeks competitively sensitive information for ratemaking or other purposes.

11. The information collection does not address any matters of a sensitive nature.

12. The following describes the burden hours associated with the collections of information discussed herein. We note that this information collection was revised in December 2021 to add consumer disclosure and waiver request requirements to the collection. OMB granted approval of these revisions on January 24, 2022.

Previously-Approved Information Collection Requirements:¹⁷

a. Consumer Disclosure Requirements:

- Consumer Disclosure of Interstate, Intrastate, and International Rates and Ancillary Service Charges:
 - (1) Number of respondents: Approximately 20.
 - (2) Frequency of response: Ongoing third-party disclosure requirement.
 - (3) Total number of responses annually: Approximately 20.
 - (4) Estimated Time per Response: Approximately 20 hours.

¹⁶ *Rates for Inmate Calling Services*, WC Docket No. 12-375, Protective Order, 28 FCC Rcd 16954 (WCB 2013); see also *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, 35 FCC Rcd 9267 (WCB 2020) (mandating non-confidential treatment of certain types of information).

¹⁷ See *supra* n.10.

We estimate that compliance will require approximately 20 hours per provider annually.

20 respondents x 20 hours per response x 1 response per year per respondent = 400 hours.

(5) Total annual burden: **Approximately 400 hours.**

The Commission estimates that approximately 20 ICS providers will require approximately 20 hours each to comply with this requirement.

Approximately 20 respondents x approximately 1 response per year per respondent x approximately 20 hours per response = Approximately 400 hours.

(5) Total estimate of “in-house” cost to respondents: **\$23,204.**

(6) Explanation of the calculation:

The Commission estimates that 20 ICS providers will be subject to the consumer disclosure requirement.

The Commission estimates that respondents will use personnel comparable in pay to a GS 13/Step 5 employee earning \$58.01 per hour. Thus:

400 hours x \$58.01= \$23,204.

- **Consumer Disclosure Billing Requirements:**

(1) Number of respondents: Approximately 20.

(2) Frequency of response: Third-party-disclosure requirement.

(3) Total number of responses annually: Approximately 20.

(4) Estimated time per response: Approximately 30 hours.

We estimate that compliance will require approximately 30 hours per provider per year.

(5) Total annual burden: **Approximately 600 hours.**

The Commission estimates that approximately 20 providers will require approximately 30 hours each to comply with this requirement.

Approximately 20 respondents x approximately 1 response per year per respondent x approximately 30 hours per response = approximately 600 hours.

(6) Total estimate of “in-house” cost to respondents = **\$34,806.**

(7) Explanation of this calculation:

The Commission estimates that 20 ICS providers will be subject to the consumer disclosure billing requirement.

The Commission estimates that respondents will use personnel comparable in pay to a GS 13/Step 5 employee earning \$58.01 per hour.

Thus, 600 hours x \$58.01= \$34,806.

b. **Waiver Request Reporting Requirement:**

- (1) Number of respondents: Approximately 3.
- (2) Frequency of response: On occasion reporting requirement as requested by filer.
- (3) Total number of responses annually: Approximately 3.
- (4) Estimated Time per Response: Approximately 80 hours per provider.
- (5) Total annual burden: Approximately 240 hours.

The Commission estimates that approximately three ICS providers will require approximately 80 hours each to comply with this requirement annually.

Approximately 3 respondents x approximately 1 response annually x approximately 80 hours per response = approximately 240 hours.

- (6) Total estimate of “in-house” cost to respondents: **\$30,000.00.**
- (7) Explanation of the calculation:

We estimate that respondents will use approximately 80 hours of professional personnel (rate of approximately \$125 per hour) to satisfy this waiver request requirement.

Thus, 240 hours per year x \$125.00 = \$30,000.00.

Revised Requirements for Annual Reports:

a. **Reporting Requirement (Annual Reports):**

- (1) Number of respondents: Approximately 20.
- (2) Frequency of response: Annual.
- (3) Total number of responses annually: Approximately 20.
- (4) Estimated Time per Response: Approximately 120 hours.

20 respondents x approximately 120 hours per response x 1 response per respondent = 2,400 hours.

- (5) Total annual burden: **2,400 hours.**

The Commission estimates that approximate 20 ICS providers will require approximately 120 hours of reporting time.

- (6) Total estimate of “in-house” costs to respondents: **\$139,224.**

(7) Explanation of calculation:

The Commission estimates that approximately 20 ICS providers will be subject to this reporting requirement.

The Commission estimates that respondents will use personnel comparable in pay to a GS 13/Step 5 employee earning \$58.01 per hour.

Thus, 2,400 hours x \$58.01 per hour = \$139,224.

b. Certification of Information and Data in the Annual Reports:

(1) Number of respondents: Approximately 20.

(2) Frequency of response: Annual.

(3) Total number of responses annually: Approximately 20.

(4) Estimated Time per Response: Approximately 5 hours.

20 respondents x 5 hours per response x 1 response per year per respondent = 100 hours.

(5) Total annual burden: Approximately **100 hours**.

The Commission estimates that approximately 20 ICS providers will require approximately 5 hours of time per annual filing. Although the certification reporting requirement has been revised, the burden per ICS provider has not changed.

Approximately 20 respondents annually x 1 response annually x 5 hours per response = 100 hours.

(6) Total estimate of “in-house” cost to respondents: **\$12,500**.

(7) Explanation of the calculation:

The Commission estimates that 20 ICS providers will be subject to this certification requirement.

We estimate that respondents will use 5 hours of an officer of the company’s time (rate of approximately \$125/hour) to satisfy this certification requirement.

Thus, approximately 100 hours per year x \$125 = \$12,500.

c. Total Annual Burden Hours:

(a)	Reporting Requirement (Annual Reports):	2,400
(b)	Certification Requirement:	100
(c)	Consumer Disclosure Requirements:	

- Disclosure of Interstate, Intrastate, and International Rates and Ancillary Service Charges	400
- Consumer Disclosure Billing Requirement:	600
(d) Waiver Request Reporting Requirement:	<u>240</u>
	3,740

Total Respondents: 20.

Total Responses: 20 + 3 = 23.

Total In-House Costs: \$23,204 + \$34,806 + \$30,000 + \$139,224 + \$12,500 = \$239,734.

Total Annual Burden Hours: 2,400 + 100 + 400 + 600 + 240 = 3,740.

13. Estimated operations and maintenance (O&M) costs of respondents resulting from the collection of information:

(a) Total capital start-up costs component annualized over its expected useful life: \$0.

The collections will not result in additional capital expenditures such as computers or software. Providers, however, may need to update existing software to comply with the requirement that ICS providers clearly label certain rate components as separate line items on consumer bills.

(b) Total operation and maintenance and purchase of services component: \$0.

(c) Total annualized cost requested: \$0.

14. There are unlikely to be any additional costs to the Commission because the data will be submitted by ICS providers in WC Docket No. 12-375 via the Commission's Electronic Comment Filing System, requiring no additional Commission resources to process or publish.

15. Since the last submission to OMB, the Commission is reporting a program change/increase to this collection as a result of revisions to the Annual Report, Instructions, and Certifications. The burden hours have increased from 2,940 to 3,740 (+800) to reflect these changes. The number of respondents and responses has not changed since the last submission.

16. The Commission does not anticipate publishing any of the information collected. Rather, the ICS providers' Annual Reports and Certifications will be available for public review via the Commission's ECFS.

17. The Commission is not seeking approval not to display an OMB expiration date.

18. When the 60/30-Day notices were published in the Federal Register on January 14, 2022 and July 22, 2022, respectively (87 FR 2432 and 87 FR 43849), the Commission inadvertently omitted the rulemaking number in the title of this information collection. This update in the title is now reflected in this submission to OMB.

There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

19. The Commission does not anticipate that the proposed collection of information will employ statistical methods.