

## **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*,<sup>1</sup> 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.<sup>2</sup> Pursuant to the authority delegated to it by the Commission in the *2015 ICS Order*,<sup>3</sup> the Wireline Competition Bureau (Bureau) created a standardized reporting template (FCC Form 2301(a)),<sup>4</sup> as well as instructions to guide providers through the reporting process. The instructions explained the reporting and certification requirements.<sup>5</sup>

*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,<sup>6</sup> 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.<sup>7</sup> The Commission did not

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<sup>1</sup> *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*).

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

<sup>3</sup> *2015 ICS Order*, 30 FCC Rcd at 12891, para. 267.

<sup>4</sup> *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>.

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

<sup>6</sup> *2015 ICS Order*, 30 FCC Rcd at 12891, para. 267.

<sup>7</sup> 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.<sup>8</sup> 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*,<sup>9</sup> 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.<sup>10</sup> 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*.<sup>11</sup> 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.<sup>12</sup> 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*."<sup>13</sup> 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."<sup>14</sup> The Bureau explained that the 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

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<sup>8</sup> 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).

<sup>9</sup> *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*).

<sup>10</sup> 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).

<sup>11</sup> *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*).

<sup>12</sup> *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Order, DA 22-676 (WCB June 24, 2022) (*Revision Order*).

<sup>13</sup> See *Revision Order* at para. 1.

<sup>14</sup> *Id.* at para. 4.

Commission's ICS rules.”<sup>15</sup>

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 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

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<sup>15</sup> *Id.*

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 (Jan. 14, 2022)). No comments were received. On July 22, 2022, the Commission published a 30-Day Notice in the Federal Register to solicit public comment (87 FR 43849 (July 22, 2022)). We received a single comment, submitted by Global Tel\*Link Corporation (GTL), d/b/a ViaPath Technologies (ViaPath), an ICS provider.<sup>16</sup> ViaPath's comment addresses: (a) the in-kind site commission reporting requirement; (b) financial data requests; (c) the estimated burden associated with the collection; and (d) the necessity of certain reporting requirements.

#### **A. In-Kind Site Commission Reporting Requirement**

*Arguments.* ViaPath contends that it does not maintain, track, nor quantify data on in-kind site commissions in a manner that translates into dollar amounts, as required by the revised Annual Report.<sup>17</sup> ViaPath asserts that in-kind site commissions are included in all services it provides and all costs it incurs, and that "[s]trict compliance with the revised Annual Report requirement would require an analysis of each contract and facility arrangement to determine what in-kind site commissions exist."<sup>18</sup> ViaPath contends that it is difficult to quantify the value of in-kind site commissions in a market that is constantly changing, as their value could vary from month to month based on the market."<sup>19</sup> ViaPath argues that compliance with the revised reporting requirement would require hundreds of hours of in-house personnel, that the burden outweighs any benefit to the purpose of the Annual Report, and that compliance does not serve the public interest.<sup>20</sup>

*Response.* ViaPath correctly observes that "[t]he purpose of the Annual Report is to enable the Commission to monitor and track trends in the ICS marketplace, increase provider transparency, and ensure compliance with the ICS rules."<sup>21</sup> As explained below, ViaPath ignores the fact that the in-kind site commission reporting requirement furthers these purposes, without unduly burdening ICS providers.

As an initial matter, the requirement that ICS providers submit information concerning their in-kind site commissions is not new. Despite ViaPath's claim that it cannot comply with the revised requirement, the instructions for this collection as originally approved by OMB in 2017 and as subsequently revised have always required providers to report both fixed and variable site commission payments, and defined "site commissions" as "any form of monetary payment, exchange of services, or goods, fee, technology allowance, or product that a provider of ICS may pay, give, donate, or otherwise

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<sup>16</sup> ViaPath Paperwork Reduction Act Comments (filed Aug. 22, 2022) (ViaPath PRA Comments). GTL changed its name to ViaPath in January 2022.

<sup>17</sup> ViaPath PRA Comments at 4.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 5.

<sup>21</sup> *Id.* at 2.

provide to an entity with which the provider of ICS enters into an agreement to provide ICS. . . .”<sup>22</sup> ViaPath, therefore, should have been reporting its in-kind site commission payments as part of its total (i.e., monetary plus in-kind) fixed and variable site commission in its prior annual reports.

In the *December 2021 Public Notice*, WCB proposed to require each provider to report its monetary and in-kind site commission payments separately. After fully considering arguments from providers, including ViaPath, WCB implemented this proposal and also required that the reports include a narrative response specifying the methodology the provider used to determine the value of its in-kind site commissions payments.<sup>23</sup> WCB found the narrative necessary because in-kind site commission payments encompass a wide variety of goods or services, such as items developed through in-house labor, which may lack easily ascertainable monetary values.<sup>24</sup>

ViaPath’s argument that it is unable to quantify its in-kind site commissions, as required by the revised instructions, ignores this administrative history and is otherwise unavailing. ViaPath fails to explain why it is unable to maintain, track, or quantify data regarding in-kind site commission payments, when other ICS providers are able to perform this task. Nor has ViaPath provided any support for its other claims that compliance with the reporting requirement is difficult. For example, ViaPath has not explained why compliance with the reporting requirement would require “hundreds of hours of in-house personnel.” Contrary to ViaPath’s argument, the revised in-kind site commission reporting requirement will provide substantial benefits—allowing the Commission to collect more complete and detailed information for analysis regarding the providers’ site commission payments—that far outweigh any minor increased burden on providers. If the Commission is to successfully monitor the ICS marketplace, it must know the value of both monetary and in-kind site commission payments and the service provider making the in-kind payments is far better able to determine the value than the Commission.

## **B. Financial Data Requests**

*Argument.* ViaPath contends that the revised Annual Report fails to recognize that ICS providers “are non-dominant competitive carriers and are not required to maintain their records in the same manner required of dominant carriers.”<sup>25</sup> ViaPath argues that the revised Annual Report is designed to require ICS providers to produce financial data “in a format based on detailed accounting and recordkeeping obligations that are not applicable to ICS providers.”<sup>26</sup> For example, ViaPath argues that the requirement that ICS providers explain how they allocate ancillary service charges among multiple facilities served under a single contract would require it to “engage in an allocation process that ViaPath does not conduct in the ordinary course of business.”<sup>27</sup> ViaPath urges the Commission to “allow for flexibility in responding to the revised Annual Report that reflects how ICS providers are permitted to conduct their business and maintain their books and records under the law.”<sup>28</sup>

*Response.* The Annual Reports and the data collection are fully consistent with ICS provider accounting practices. In the Order adopting the *Third Mandatory Data Collection* for ICS, WCB and the Office of Economics and Analytics (OEA) rejected ViaPath’s argument that it could not satisfy financial data requests because they were similar to those the Commission had previously addressed to

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<sup>22</sup> See 82 FR 12183 (Mar. 1, 2017); 2020 Annual Reporting Instructions at 8 (defining site commissions); see also 47 CFR § 64.1000(t) (defining site commissions as including “in-kind payments”).

<sup>23</sup> See *Revision Order* at para. 15.

<sup>24</sup> *Id.*

<sup>25</sup> ViaPath PRA Comments at 5.

<sup>26</sup> *Id.* at 4-5.

<sup>27</sup> *Id.* at 5 (citing *Revision Order* at para. 11).

<sup>28</sup> *Id.* at 6.

dominant carriers.<sup>29</sup> WCB/OEA found, among other things, that ViaPath's claims were contradicted by other ICS providers' comments stating that the financial data requests are consistent with existing ICS provider recordkeeping practices, and that ICS providers already have access to the requested data.<sup>30</sup> WCB/OEA concluded that any purported similarity to accounting rules for dominant carriers is irrelevant, especially when corporations are frequently called upon to reformat [accounting] information for different reporting purposes.<sup>31</sup> ViaPath made the same arguments about its alleged inability to comply with financial data requests in a PRA comment it filed in response to the 60-Day Notice for the *Third Mandatory One-Time Data Collection*.<sup>32</sup> The Commission rejected ViaPath's argument for the reasons set forth above,<sup>33</sup> and OMB approved that data collection.

ViaPath's status as a nondominant carrier does not preclude the Commission from requiring ViaPath to provide the information sought through this collection. In particular, that status does not preclude the Commission from requiring ViaPath to explain how it allocates ancillary service charges among multiple facilities served by a single contract, a requirement that is critical to the Commission's understanding of ICS providers' ancillary services charges and practices at each facility served. ViaPath's assertion that it does not perform this allocation in the ordinary course of business is beside the point. The Commission properly exercised its discretion in adopting that requirement and the other requirements in this collection. As such, ViaPath's arguments regarding its status as a nondominant carrier have no bearing on OMB's review of the paperwork burden associated with this requirement.

### **C. Estimated Burden Associated with the Collection**

*Argument.* In the 60-Day Notice, the Commission estimated that it would take ICS providers approximately 120 hours to respond to the requirements of the revised Annual Reports. ViaPath, which did not comment on the estimated burden in response to the 60-Day Notice, now argues that the collection will impose a significant burden on providers, claiming that the Bureau has "grossly underestimated" the amount of time it will take ICS providers to respond to the revised Annual Report.<sup>34</sup> Observing that the burden estimate increased by 40 hours per respondent since the collection was first approved by OMB in 2017, ViaPath claims that this increase "demonstrates the significant burden associated with completing the revised Annual Report."<sup>35</sup>

*Response.* We disagree that this Annual Report data collection is overly burdensome. In the *2015 ICS Order*, the Commission undertook comprehensive reform of the ICS marketplace and delegated to WCB the responsibility of establishing an annual data filing that would help the Commission monitor and track trends in the ICS marketplace, increase provider transparency, and promote compliance with the Commission's ICS rules.<sup>36</sup> The Commission determined that the benefits of conducting an Annual Report data collection far outweighed any burden on providers.<sup>37</sup> As

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<sup>29</sup> *Rates for Interstate Inmate Calling Services*, WC Docket 12-375, Order, DA 22-52 (WCB/OEA Jan. 18, 2022) (*Revision Order*) at para. 37.

<sup>30</sup> *Revision Order* at para. 37 (internal quotations omitted).

<sup>31</sup> *Id.*

<sup>32</sup> See ViaPath PRA Comments (regarding 2022 One-Time Data Collection) at 4.

<sup>33</sup> See Supporting Statement, Inmate Calling Services (ICS) 2022 One-Time Data Collection, WC Docket No. 12-375, FCC 21-60 at 6-7.

<sup>34</sup> ViaPath PRA Comments at 6.

<sup>35</sup> *Id.*

<sup>36</sup> *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, 12769, 12891-93, paras. 9, 267-273 (*2015 ICS Order*).

<sup>37</sup> *2015 ICS Order* at 12892-93, paras. 267-73.

implemented, the data collection is fully consistent with the Commission's assessment, appropriately balancing the need for clear, detailed, and useful information about ICS providers and the desire to avoid unduly burdening providers.<sup>38</sup>

ViaPath's argument that WCB "grossly underestimated" the burden of the collection is unavailing. Instead of providing an alternative estimate, ViaPath simply points out that it provides calling services to 1,600 individual facilities across the United States, which are governed by over 400 contracts, and, if it spent only one hour per contract to collect, compile, and report in the data categories required by the revised Annual Report, it would spend over 400 hours to respond to the revised Annual Report.<sup>39</sup> As WCB/OEA recognized in adopting the Third Mandatory Data Collection, ViaPath is the largest calling services provider, "with an estimated market share approaching 50%."<sup>40</sup> In light of that market share, we would expect that ViaPath's total response time would exceed any industry average, regardless of the number of estimated hours.<sup>41</sup>

Contrary to ViaPath's contention, the fact that the burden estimate has increased since the collection was first approved in 2017 is not evidence that there is a significant burden associated with the revised collection. Rather, the revised burden estimate reflects how Commission regulation of ICS providers and consequently the Commission information needs have evolved since the collection was first approved by OMB. It is disingenuous of ViaPath to expect the burden estimate of a collection to remain the same after it has been revised in response to Commission orders imposing new obligations on providers necessary to advance the Commission's policy objectives and fulfill the Commission's statutory mandates.

#### **D. Necessity of Reporting Requirements**

*Argument.* ViaPath asserts that "many" of the reporting obligations in the revised Annual Report are not necessary to achieve the Commission's goal of ensuring compliance with the Commission's rate caps and related rules.<sup>42</sup> In particular, ViaPath questions the usefulness of the requirement that providers report the highest, average, and year-end ICS rates charged at each facility.<sup>43</sup> ViaPath contends that this requirement is not necessary to ensure compliance with the Commission's rules, and "would not achieve the goal of reducing the burden on providers."<sup>44</sup>

*Response.* ViaPath's arguments are unavailing. Its broad assertion that "many" reporting requirements are not useful or necessary to achieving compliance with the Commission's rules are, like many of the claims discussed above, arguments that the Commission improperly exercised its discretion in adopting these requirements, and should have no bearing on OMB's review of the paperwork burden

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<sup>38</sup> See *Revision Order* at para. 4.

<sup>39</sup> ViaPath PRA Comments at 6.

<sup>40</sup> *Revision Order* at 12-14 n.105 (internal quotations omitted).

<sup>41</sup> ViaPath made a similar argument in a PRA comment it filed in response to the 60-Day Notice for the Third Mandatory Data Collection. See Supporting Statement, Inmate Calling Services (ICS) 2022 One-Time Data Collection, WC Docket No. 12-375, FCC 21-60 at 4. The Commission rejected ViaPath's argument for the reasons paralleling those set forth above, and OMB approved that collection.

<sup>42</sup> ViaPath PRA Comment at 6-7.

<sup>43</sup> *Id.* at 7.

<sup>44</sup> *Id.* (citing *Revision Order* at paras 6-7). ViaPath also argues that the Commission should reevaluate the burden associated with the requirement to submit intrastate ICS data as part of the revised Annual Report in light of the D.C. Circuit's decision in *Global Tel\*Link v. FCC*, 866 F.3d397 (D.C. Cir. 2017). *Id.* at n.31. This argument is inapposite. The Commission properly exercised its discretion in adopting the requirements of this collection, and ViaPath's claim regarding the D.C. Circuit's decision should have no bearing on OMB's review of the paperwork burdens associated with these requirements. Such an argument is not relevant in the context of the PRA process.

associated with these requirements. ViaPath had an opportunity to comment on the proposed reporting requirements in response to WCB's *December 2021 Public Notice*, and its comments were thoroughly considered in the *Revision Order* adopting revised requirements for the Annual Report instructions and template.<sup>45</sup>

While ViaPath correctly identifies the goal of the collection—ensuring compliance with the Commission's rules—it questions a reporting requirement that is necessary to achieving this goal: that providers report the highest, average, and year-end ICS rates charged at each facility. In the *Revision Order*, WCB found no merit in ViaPath's argument concerning the revised reporting requirements regarding ICS rates,<sup>46</sup> concluding that ViaPath had failed to recognize that the revised requirements would significantly reduce the overall burden of reporting rates.<sup>47</sup> WCB explained that limiting the required reported rates to only the highest, average, and year-end rates constituted “a winnowing of the providers' current rate reporting responsibilities.”<sup>48</sup> The information necessary to report the highest, average, and year-end rates at each facility should be readily available to ViaPath and other providers, and those three measures are necessary for the Commission to understand the full impact of ViaPath's rates on incarcerated people. Accordingly, OMB should reject ViaPath's arguments about the utility of this requirement. The information being collected will provide valuable rate information, while reducing this part of the burden on providers.

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.<sup>49</sup> 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:**<sup>50</sup>

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<sup>45</sup> See *Revision Order* at para. 1.

<sup>46</sup> See *Revision Order* at para. 7, n.18 (citing ViaPath Comments on the *December 21 Public Notice* at 3 (arguing that year-end rates will show whether providers are in compliance with the Commission's rate cap rules)).

<sup>47</sup> Under the 2020 instructions, providers must report every rate they charged during the calendar year, a significantly broader undertaking than simply reporting highest, average, and year-end rates. See 2020 Annual Reporting Instructions at 4-7 (requiring providers to identify the highest interstate, intrastate, and international rates charged and to identify each interstate, intrastate, and international rate charged that differs from the highest rate).

<sup>48</sup> See *Revision Order* at para. 7.

<sup>49</sup> *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).

<sup>50</sup> See *supra* n.10.



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.

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.