

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act)	WC Docket No. 23-62
)	
Rates for Interstate Inmate Calling Services)	WC Docket No. 12-375

ORDER

Adopted: January 8, 2025**Released: January 8, 2025**

By the Chief, Wireline Competition Bureau, and the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. By this Order, the Wireline Competition Bureau (WCB) and the Consumer and Governmental Affairs Bureau (CGB) (collectively, the Bureaus) revise the instructions, reporting templates, and certification form for the Annual Reports that providers of incarcerated people's communications services (IPCS) are required to submit.¹ The revisions we implement today primarily incorporate the expanded Commission authority under the Martha Wright-Reed Just and Reasonable Communications Act of 2022 (Martha Wright-Reed Act or Act),² and largely adopt the proposals contained in the *August 2023 Public Notice* and *September 11, 2024 Public Notice*,³ with certain refinements and modifications made in response to comments in support of streamlining reporting obligations. Our revisions also reflect the Commission's expanded authority under the Martha Wright-Reed Act,⁴ as well as the reporting requirements proposed in the *2023 August Public Notice* regarding access to IPCS by persons with communication disabilities, including access to Telecommunications Relay Service (TRS).⁵

¹ 47 CFR § 64.6060(a).

² Martha Wright-Reed Just and Reasonable Communications Act of 2022, Pub. L. No. 117-338, 136 Stat. 6156 (2022); *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62 and 12-375, Report and Order, Order on Reconsideration, Clarification and Waiver, and Further Notice of Proposed Rulemaking, FCC 24-75, at 296-98, paras. 569-72 (rel. July 22, 2024) (*2024 IPCS Order* or *Order* or *2024 IPCS Notice*).

³ *Wireline Competition Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Revisions to Providers' Annual Reporting and Certification Requirements*, WC Docket Nos. 23-62 and 12-375, Public Notice, 38 FCC Rcd 6732 (WCB/CGB 2023) (*August 2023 Public Notice*); *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62 and 12-375, Public Notice, DA 24-918 (WCB/CGB Sept. 11, 2024) (*September 11, 2024 Public Notice*).

⁴ Martha Wright-Reed Act; *2024 IPCS Order* at 296-98, paras. 569-72.

⁵ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Fourth Report and Order and Sixth Further Notice of Proposed Rulemaking, 37 FCC Rcd 11900, 11922-24, paras. 47-62 (2022) (*2022 ICS Order* or *2022 ICS Notice*); see *August 2023 Public Notice*, 38 FCC Rcd at 6738 (describing proposed modifications to reporting obligations regarding disability access and related considerations).

II. BACKGROUND

2. The Commission requires IPCS providers to make annual filings, which “enable the Commission and the public to monitor pricing practices and trends in the IPCS marketplace generally.”⁶ In 2015, pursuant to delegated authority,⁷ WCB created a standardized reporting template (FCC Form 2301(a)) for the Annual Reports and a related certification form (FCC Form 2301(b)), as well as instructions to guide providers through the reporting and certification process.⁸ WCB amended the instructions, reporting templates, and certification form in 2020 in order to improve the type and quality of the information collected.⁹ In 2022, WCB again amended the instructions, reporting template, and certification form to reflect the reforms adopted in the *2021 ICS Order*, including lower interim rate caps for interstate inmate calling services (ICS) calls,¹⁰ new interim rate caps for international ICS calls, and a rate cap structure that requires ICS providers to differentiate between legally mandated and contractually required site commissions.¹¹

3. Subsequent developments require additional changes to the instructions, reporting template, and certification form.¹² First, in September 2022, the Commission adopted the *2022 ICS Order*, which included requirements to improve access to communications services for incarcerated people with communication disabilities and expanded the scope of the Annual Reports to reflect those

⁶ *2024 IPCS Order* at 294, para. 565. These annual filings are referred to herein as “Annual Reports.” 47 CFR § 64.6060(a).

⁷ *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, 12891-92, paras. 267-68 (2015) (*2015 ICS Order*).

⁸ See *id.*. See generally IPCS Annual Reporting Form Word Template (Appx. A) (Current), WC Docket Nos. 23-62 and 12-375, <https://www.fcc.gov/general/ipcs-data-collections> (last visited Jan. 7, 2025) (Word Template); IPCS Annual Reporting Form Excel Template (Appx. B) (Current), WC Docket Nos. 23-62 and 12-375, <https://www.fcc.gov/general/ipcs-data-collections> (last visited Jan. 7, 2025) (Excel Template); IPCS Annual Reporting and Certification Instructions (Current), WC Docket Nos. 23-62 and 12-375, <https://www.fcc.gov/general/ipcs-data-collections> (last visited Jan. 7, 2025) (Instructions or Certification Instructions); IPCS Annual Report Certification Form (Appx. C) (Current), WC Docket Nos. 23-62 and 12-375, <https://www.fcc.gov/general/ipcs-data-collections> (last visited Jan. 7, 2025) (Certification Form).

⁹ 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).

¹⁰ In the *2024 IPCS Order*, the Commission adopted the use of the terms “incarcerated people’s communications services” and “IPCS,” in place of “inmate calling services” or “ICS,” to refer to “the broader range of communications services subject to the Commission’s jurisdiction as a result of the [Martha Wright-Reed] Act.” *2024 IPCS Order* at 291, para. 557 (quoting *Incarcerated People’s Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62 and 12-375, Notice of Proposed Rulemaking and Order, 38 FCC Rcd 2669, 2700, para. 80 (2023) (*2023 IPCS Notice* or *2023 IPCS Order*)).

¹¹ *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*). The reforms also included expanded consumer disclosure requirements, as well as new reporting requirements for ICS providers seeking waiver of the Commission’s interstate and international rates. *Id.* In December 2021, WCB released a Public Notice proposing to implement the reforms adopted in the *2021 ICS Order*. See *Wireline Competition Bureau Seeks Comment on Revisions to Annual Reporting and Certification Requirements for ICS Providers*, WC Docket No. 12-375, Public Notice, 36 FCC Rcd 17685 (WCB 2021). After considering the comments and replies submitted in response to the Public Notice, WCB released an Order revising the instructions, reporting template and certification form. *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Order, 37 FCC Rcd 7558 (WCB 2022).

¹² FCC Form 2301(a) is presently comprised of an Excel template and a Word template.

new requirements.¹³ Specifically, the Commission required ICS providers to list, at a minimum, for each facility served, the types of TRS that can be accessed from the facility and the number of completed calls and complaints for TTY-to-TTY calling, point-to-point American Sign Language (ASL) video calls, and each type of TRS for which access is provided.¹⁴ The Commission also eliminated the safe harbor, adopted in 2015, that had exempted providers from any TRS-related reporting requirements if they either (1) operated in a facility that allowed the offering of additional forms of TRS beyond those mandated by the Commission or (2) had not received any complaints related to TRS calls.¹⁵ The Commission found that the safe harbor was no longer appropriate given the expanded reporting requirements for additional forms of TRS, and the importance of transparency regarding the state of accessible communications in incarceration settings.¹⁶ The Commission delegated authority to the Bureaus to implement the expanded reporting obligations and to develop a reporting form that would most efficiently and effectively elicit the required information.¹⁷

4. Second, on January 5, 2023, the President signed into law the Martha Wright-Reed Act, which expanded the Commission's statutory authority over communications between incarcerated people and the non-incarcerated, including "any audio or video communications service used by inmates . . . regardless of technology used."¹⁸ The new Act also amended section 2(b) of the Communications Act of 1934, as amended (the Communications Act), to make clear that the Commission's authority extends to intrastate as well as interstate and international communications services used by incarcerated people.¹⁹

5. The Act directed the Commission to "promulgate any regulations necessary to implement" the Act, including its mandate that the Commission establish a "compensation plan" ensuring that all rates and charges for IPCS "are just and reasonable," not earlier than 18 months and not later than 24 months after the Act's January 5, 2023 enactment date.²⁰ The Act also required the Commission to consider, as part of its implementation, the costs of "necessary" safety and security measures, as well as "differences in costs" based on facility size, or "other characteristics."²¹ It also allowed the Commission to "use industry-wide average costs of telephone service and advanced communications services and the average costs of service of a communications service provider" in determining just and reasonable rates.²²

6. Pursuant to the directive that the Commission implement the new Act and ensure just and reasonable rates and charges for IPCS, the Commission adopted the *2023 IPCS Notice*, seeking comment

¹³ See *2022 ICS Order* at 11922-11924, paras. 47-52; 47 CFR § 64.6040(b) (expanding access requirements for incarcerated persons with communication disabilities). Among the numerous reforms, the Commission required all ICS providers to provide access to all relay services eligible for TRS Fund support in any facility where broadband is available and where the average daily population incarcerated in that jurisdiction (i.e., in that city, county, state, or the United States) totals 50 or more persons. See *2022 ICS Order*, 37 FCC Rcd at 11902, para. 3. The Commission also adopted targeted reforms to lessen the financial burden on incarcerated people and their loved ones when using calling services. *Id.* at 11902, para. 4.

¹⁴ *2022 ICS Order*, 37 FCC Rcd at 11922, para. 48.

¹⁵ *Id.* at 11923-24, para. 51 (citing the *2015 ICS Order*, 30 FCC Rcd at 12883, para. 246). A provider that fell within the safe harbor was required to include a certification from an officer of the company stating which prong(s) of the safe harbor it had met. *2022 ICS Order*, 37 FCC Rcd at 11924, para. 51.

¹⁶ *2022 ICS Order*, 37 FCC Rcd at 11924, para. 51.

¹⁷ *Id.* at 11924, para. 52.

¹⁸ Martha Wright-Reed Act § 2(a)(2), (b).

¹⁹ *Id.* § 2(c).

²⁰ *Id.* §§ 2, 3(a); 47 U.S.C. § 276(b)(1)(A).

²¹ Martha Wright-Reed Act § 3(b)(2).

²² *Id.* § 3(b)(1).

on how to interpret the Act's language to ensure that the Commission implemented the statute in a manner that fulfilled Congress's directives.²³ The Commission also adopted the *2023 IPCS Order*, in which it reaffirmed and updated its prior delegation of authority to the Bureaus to modify, supplement, and update the instructions and templates for the Annual Reports.²⁴ On August 3, 2023, we released a Public Notice seeking comment on proposed revisions to the instructions and templates for the annual reports and annual certifications.²⁵ We received several comments in response to the *August 2023 Public Notice*.²⁶

7. Third, in July 2024, the Commission adopted the *2024 IPCS Order*, which implemented the expanded authority granted to the Commission by the Martha Wright-Reed Act.²⁷ In that Order, the Commission revised its rules by, *inter alia*:

- Adopting permanent rate caps for audio IPCS and interim rate caps for video IPCS;
- Adopting new facility tiers for both audio and video IPCS;
- Prohibiting providers from imposing any ancillary service charges on IPCS consumers;
- Prohibiting providers from making site commission payments associated with IPCS;
- Allowing providers to offer alternate pricing plans for IPCS subject to certain conditions;
- Revising and strengthening existing consumer disclosure and inactive account requirements; and
- Revising and strengthening IPCS accessibility requirements for incarcerated people with disabilities.²⁸

8. The *2024 IPCS Order* also modified the scope and content of the annual reporting requirements to reflect the reforms adopted under the Martha Wright-Reed Act.²⁹ The Commission expanded its annual reporting and certification requirements to include the full scope of services and providers now subject to the IPCS rules.³⁰ The Commission also eliminated the sections of the annual reporting rules mandating the reporting of information on ancillary service charges and site commissions, to reflect the prohibitions of those items adopted in the *2024 IPCS Order*.³¹ Finally, the Commission reaffirmed and updated its prior delegation of authority to the Bureaus to revise the requirements for the Annual Reports, to reflect the Commission's expanded authority under the Martha Wright-Reed Act and the other actions taken in the *2024 IPCS Order*, and directed the Bureaus to pay particular attention to the video IPCS marketplace and the availability and usage of Telecommunications Relay Services (TRS) in exercising this delegated authority.³²

²³ See generally *2023 IPCS Notice*, 38 FCC Rcd 2669.

²⁴ *2023 IPCS Order*, 38 FCC Rcd at 2702, para. 86.

²⁵ See generally *August 2023 Public Notice*.

²⁶ We received comments or reply comments in response to the *August 2023 Public Notice* from Securus Technologies, LLC (Securus), Global Tel*Link Corporation d/b/a ViaPath Technologies (ViaPath), and Pay Tel Communications, Inc. (Pay Tel).

²⁷ See generally *2024 IPCS Order*.

²⁸ See *id.* at 3-4, paras. 3-4.

²⁹ *Id.* at 296-300, paras. 565-70.

³⁰ See *id.* at 298, para. 569.

³¹ See *id.* at 298, para. 570. The Commission also retained the rules describing the reporting requirements concerning TRS and related communications services, but renumbered them.

³² See *id.* at 299-300, paras. 571-72.

9. Pursuant to this updated delegated authority, we released the *September 2024 Public Notice* seeking to “expand and refresh the record on revisions to the Annual Report instructions, templates, and certification form, in addition to those proposed in the *August 2023 Public Notice*, and to implement the modifications to the annual reporting and certification requirements adopted by the Commission in the *2024 IPCS Order*.”³³ The Bureaus also sought comment on “any additional modifications the Bureaus should consider to make these forms consistent with the new rules, including the varied compliance dates adopted in the *2024 IPCS Order*” for the Commission’s rate cap and site commission reforms.³⁴ We received comments from IPCS providers and public interest advocates.³⁵

III. DISCUSSION

10. Pursuant to our delegated authority, we adopt revised instructions and templates for the Annual Reports and certifications for IPCS providers attached hereto as Appendix A.³⁶ These instructions and templates largely follow the proposals in the *August 2023 Public Notice* and the *September 2024 Public Notice*, with revisions to both enhance the value and usefulness of the Annual Reports and reduce existing or proposed reporting burdens, while continuing to enable the Commission to monitor the IPCS marketplace. To that end, we expect the detailed instructions and templates we adopt herein to result in reports that provide the Commission, its state counterparts, and the public with a clearer, more complete picture of IPCS providers’ service offerings than was available under prior Annual Reports, while on balance decreasing reporting burdens on providers. The changes we make to the instructions and templates will bring increased transparency to IPCS providers’ rates, charges, and practices, help ensure compliance with the Commission’s IPCS rules, and allow the Commission to “monitor pricing practices and trends in the IPCS marketplace generally.”³⁷

A. Overall Structure of the Annual Reporting and Certification Requirements

11. Pursuant to our delegated authority, we revise the Annual Report instructions, templates, and certification form to reflect the Commission’s 2022 amendments to the Annual Reports rule³⁸ and to include the additional services and providers now subject to the Commission’s authority under the Martha Wright-Reed Act.³⁹ We also implement additional improvements based on our experience reviewing

³³ *September 11, 2024 Public Notice* at 2.

³⁴ *Id.* at 2-3.

³⁵ We received comments or reply comments in response to the *September 11, 2024 Public Notice* from Securus; ViaPath; the late Martha Wright, Ulandis Forte, Ethel Peoples, Laurie Lamancusa, Dedra Emmons, Charles Wade, Earl Peoples, Darrell Nelson, and Jackie Lucas (Wright Petitioners); Worth Rises, Inc. (Worth Rises); Pay Tel; and the United Church of Christ Media Justice Ministry (UCC Media Justice).

³⁶ Appendix A provides a link to the instructions and reporting templates. The reporting template consists of a Word document and Excel spreadsheets. For simplicity, we refer to these respective portions of the reporting template as the Word template and the Excel template.

³⁷ *2024 IPCS Order* at 294-95, para. 565. *See also* Wright Petitioners Comments, WC Docket Nos. 23-62 and 12-375, at 1-2 (rec. Nov. 4, 2024) (Wright Petitioners Nov. 4, 2024 Comments) (“The annual reports enhance transparency and the accountability of IPCS providers[.]”); ViaPath Comments, WC Docket Nos. 23-62 and 12-375, at 2 (rec. Nov. 4, 2024) (ViaPath Nov. 4, 2024 Comments) (the annual reports “enable the Commission to monitor and track trends in the IPCS marketplace, increase provider transparency, and ensure compliance with the Commission’s IPCS rules”); Wright Petitioners Reply, WC Docket Nos. 23-62 and 12-375, at 1 (rec. Dec. 9, 2024) (Wright Petitioners Dec. 9, 2024 Reply) (“[T]he annual reports are a valuable resource and should be utilized to advance the Commission’s oversight of IPCS.”).

³⁸ *2022 ICS Order*, 37 FCC Rcd at 11922-24, paras. 47-52; *id.* at 11977, Appx. B, § 64.6060(a)(5)-(7).

³⁹ *2023 IPCS Notice*, 38 FCC Rcd at 2671, para. 4; Martha Wright-Reed Act § 2(a)(2), (b), (c); 47 U.S.C. §§ 152(b), 153(1)(E), 276(b)(1)(A), (d). These revised instructions and the associated template and certification form will

(continued....)

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

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

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

14. In the *August 2023 Public Notice*, we proposed to expand the Annual Reports to collect information regarding video IPCS in light of the Martha Wright-Reed Act and to implement the expanded reporting obligations for TRS adopted in the *2022 ICS Order*.⁴⁰ In response to that public notice, Securus argued that it was premature to collect such information, because at that time (i.e., September 2023) "[t]he Commission's codified rules . . . d[id] not authorize the collection and reporting of this information."⁴¹ With regard to video IPCS, Securus argued that the codified version of section 64.6060 then in effect, was limited to "inmate calling services" and thus did not encompass video services.⁴² And with regard to reporting on TRS obligations, Securus argued that while the *2022 ICS Order* "expanded the reporting obligations in the Annual Report to include the advanced forms for TRS and point-to-point video, those reporting rules [had been] delayed indefinitely pending OMB approval."⁴³

15. In subsequent advocacy in response to the *September 2024 Public Notice*, Securus does not challenge the collection of information regarding video IPCS or TRS.⁴⁴ In the *2024 IPCS Order*, the Commission adopted regulations, including interim rate caps and a per-minute rate requirement, applicable to video IPCS and explicitly amended the scope and content of section 64.6060 to reflect the expansion of the Commission's jurisdiction over advanced communications services, including video services.⁴⁵ The Commission also "retain[ed] the reporting requirements concerning TRS and related communications services in section 64.6060(a)(5)-(7), but renumber[ed] them as section 64.6060(a)(2)-(4)."⁴⁶ We find these actions address the concerns raised by Securus in connection with the *August 2023 Public Notice*.

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consolidate and supplant the instructions and template for earlier iterations of the Annual Report instructions, template, and certification form.

⁴⁰ *August 2023 Public Notice*, 38 FCC Rcd at 6732; see Securus Comments, WC Docket Nos. 23-62 and 12-375, at 2 (rec. Sept. 8, 2023) (Securus Sept. 8, 2023 Comments).

⁴¹ Securus Sept. 8, 2023 Comments at 2.

⁴² See *id.* at 2-3.

⁴³ *Id.* at 3.

⁴⁴ See generally Securus Comments, WC Docket Nos. 23-62 and 12-275 (rec. Nov. 4, 2024) (Securus Nov. 4, 2024 Comments).

⁴⁵ *2024 IPCS Order* at 296-97, paras. 569-570.

⁴⁶ *Id.* at 297, para. 570. With regard to TRS reporting, "Securus supports the current version of the TRS-related annual reporting revisions as set forth in 64.6060(a)(2)-(4)." Securus Nov. 4, 2024 Comments at 2. The Office of Management and Budget (OMB) approved the TRS requirements adopted in the *2022 ICS Order*. See *Wireline Competition Bureau Announces that a Rule Adopted in the 2022 ICS Order Requiring Certain TRS Obligations is Now Effective*, WC Docket Nos. 23-62 and 12-375, Public Notice, 39 FCC Rcd 306 (WCB 2024).

B. Specific Data and Information Inquiries

1. Definitions

16. We adopt the new and revised definitions in the instructions that we proposed in the *August 2023 Public Notice* with modifications as discussed below. These new and revised definitions reflect the Commission's expanded authority over IPCS pursuant to the Martha Wright-Reed Act. In the *2024 IPCS Order*, the Commission revised section 64.6060(a) "so the annual reporting requirement applies to *IPCS* providers, rather than the more limited universe of *ICS* providers."⁴⁷ This change "makes providers of video IPCS and advanced communications services not previously covered by [the Commission's] IPCS rules subject to the annual reporting requirement."⁴⁸ Accordingly, and in response to comments in the record, the definitions in the instructions have been revised to "encompass all IPCS providers offering any type of IPCS – audio or video, interstate/international or intrastate – regardless of the technology used to provide the service."⁴⁹ We agree with ViaPath that "[a]ll IPCS providers must be subject to the same set of rules," including the annual reporting and certification obligations.⁵⁰ To eliminate any potential doubt, we take this opportunity to emphasize that all providers that meet the Commission's definition of a "Provider" are required to comply with the Commission's IPCS rules, including the annual reporting and certification obligations.⁵¹

17. *Definition of Audio IPCS.* Securus points out that "the definition of Audio IPCS includes all TRS services, including video relay and point to point video."⁵² Securus suggests that we "clarify that for purposes of reporting rates in tabs C through E [of the Excel template], the rates exclude any rates associated with TRS."⁵³ Securus argues that "[a]bsent this clarification the tabs providing rate information for Audio IPCS could be misinterpreted as applying to all TRS services."⁵⁴ Securus notes that Tab L of the Excel template is used for reporting billed revenues for TTY-based services.⁵⁵ We agree and clarify that in reporting audio IPCS rates in Tabs C and D, the rates exclude any rates associated with TRS.⁵⁶

18. *Definition of Video IPCS.* ViaPath argues that we should revise the definition of "Video IPCS" in the instructions such that certain content-based video programming is treated similarly

⁴⁷ *2024 IPCS Order* at 297, para. 570 (emphasis in original).

⁴⁸ *Id.*

⁴⁹ ViaPath Nov. 4, 2024 Comments at 5-6.

⁵⁰ *Id.* at 6; *see also* Securus Reply, WC Docket Nos. 23-62 and 12-375, at 9 (rec. Dec. 9, 2024) (Securus Dec. 9, 2024 Reply) ("[T]he Bureaus must ensure that all IPCS providers submit an annual report.").

⁵¹ 47 C.F.R. § 64.6000. *See also* letter from Chérie R. Kiser and Angela F. Collins, Counsel to ViaPath, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 23-62 and 12-375, at 4 (filed Aug. 20, 2024) (affirming that the "new IPCS rules 'encompass[] every method that incarcerated people may presently, or in the future, use to communicate, by wire or radio, by voice, sign language, or other audio or video media, without qualification'" (citing *2024 IPCS Order* at 51-52, para. 98)).

⁵² Securus Sept. 8, 2023 Comments at 9.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ We find that the proposed Tab E, which collected information on audio IPCS rates above the Commission's rate cap rules, is rendered unnecessary and duplicative as a result of our decision to require reporting on a highest rate charged basis. Accordingly, we have removed Tab E from the Excel template and the related instructions and Word template questions.

regardless of whether it permits one-way or two-way communication.⁵⁷ ViaPath argues that “some educational or vocational courses allow the incarcerated person to speak to the professor or interact with other classmates.”⁵⁸ Securus adds that the exclusion of one-way content delivery “creates potential confusion regarding the treatment of potential *two-way* content programming, such as educational classes.”⁵⁹ In the *2024 IPCS Order*, the Commission found that “[w]here two or more people can use a video conferencing service to share information with one another in real-time, that service is subject to [the Commission’s] section 276 authority in the incarceration context” and that “[t]his authority also extends to educational, vocational, or other programming in which incarcerated people participate in real-time in the incarceration context.”⁶⁰ The Commission further found that “entertainment and other forms of content that are not real-time communications services are not included in [the Commission’s] authority over interoperable video conferencing.”⁶¹ Considering the Commission’s findings in the *2024 IPCS Order*, which was released after ViaPath filed its 2023 comments, we amend the definition of “Video IPCS” in the instructions to be consistent with that Order. Specifically, for purposes of the Annual Reports, we revise the definition of Video IPCS in the instructions to exclude entertainment and other forms of content that are not real-time communications.⁶²

19. *Definition of Safety and Security Measures.* In the *2024 IPCS Order*, the Commission determined which safety and security costs are used and useful in the provision of IPCS and included those costs in the IPCS rate caps that it established.⁶³ Given the Commission’s determination, we find it unnecessary to collect information on safety and security measures through the Annual Reports, and therefore delete the definition of Safety and Security Measures from the instructions we adopt here. Consequently, we find that the concerns raised in the record regarding this definition are moot.⁶⁴

2. Facilities and Contract Information

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

⁵⁷ See ViaPath Comments, WC Docket Nos. 23-62 and 12-375, at 2-4 (rec. Sept. 8, 2023) (ViaPath Sept. 8, 2023 Comments); ViaPath Reply, WC Docket Nos. 23-62 and 12-375, at 2-3 (rec. Sept. 25, 2023) (ViaPath Sept. 25, 2023 Reply); see also Securus Reply, WC Docket Nos. 23-62 and 12-375, at 2-3 (rec. Sept. 25, 2023) (Securus Sept. 25, 2023 Reply) (agreeing with ViaPath’s suggestions concerning the definition of Video IPCS); Pay Tel Reply, WC Docket Nos. 23-62 and 12-375, at 2-3 (rec. Sept. 25, 2023) (Pay Tel Sept. 25, 2023 Reply).

⁵⁸ ViaPath Sept. 8, 2023 Comments at 4.

⁵⁹ Securus Sept. 25, 2023 Reply at 3 (emphasis in original).

⁶⁰ *2024 IPCS Order* at 50, para. 95.

⁶¹ *Id.* at 50 n.328.

⁶² We note that such services “may, however, be subject to [the Commission’s] authority under section 3(1)(E), which is not limited to real-time communications services.” *Id.*

⁶³ See, e.g., *id.* at 205, para. 386 (“We find two categories of safety and security costs to be generally used and useful—Category 1: CALEA compliance measures; and Category 3: communications security services.”); see generally *id.* at 205-220, paras. 384-407.

⁶⁴ See ViaPath Sept. 8, 2023 Comments at 4 (arguing that the last sentence of the definition is “not necessary” and “prejudges an issue under review by the Commission in the [Martha Wright-Reed Act] proceeding”); ViaPath Sept. 25, 2023 Reply at 2; Securus Sept. 25, 2023 Reply at 3; Pay Tel Sept. 25, 2023 Reply at 2.

21. *Excel Template Tab A.* Securus argues that “the number and breakdown of facilities by type and size will produce numbers that will be over-inclusive of facilities at which an IPCS Provider provides both Audio and Video IPCS, Audio IPCS-only, or Video IPCS-only.”⁶⁵ We agree and have revised Tab A to allow IPCS providers to more accurately report those facilities at which they offer only audio IPCS, only video IPCS, or both.

22. *Excel Template Tab B.* Securus recommends adding columns to Tab B of the Excel template for providers to report whether they offer audio IPCS, video IPCS, or both at the facilities they serve.⁶⁶ We agree and simplify the recommendation by adding a single column with a drop-down menu for providers to report the service or services offered.

23. *Excel Template Tabs C through L.* Securus also suggests that using “a numerical contract and facility identifier alone for Tabs C through L will require a user to constantly go back and forth from Tab B to the other tabs to identify the applicable contract and facility.”⁶⁷ To alleviate this concern, Securus suggests that the Commission consider “some additional contracting or facility data to allow easy reference from tab to tab” and “recommends including under the Contract and Facility Information columns for the Contracting Authority, Facility Name and Facility State.”⁶⁸ While providers are welcome to add additional columns if it helps to ensure the accuracy of their filings, we decline to require providers to report this additional information in order to minimize the reporting burden on IPCS providers.

3. Audio and Video IPCS Rates

24. We streamline the reporting of audio and video IPCS rates as discussed below. In doing so, we modify the approach we proposed in the *August 2023 Public Notice* based on comments in the record arguing that some of the proposed reporting requirements would be unnecessarily burdensome.⁶⁹ We find that the revisions described below properly balance the need for the Commission to obtain data sufficient to ensure compliance with its IPCS rules and inform the Commission of industry trends, while reducing reporting burdens on IPCS providers where feasible. In addition to these revisions, and to account for the staggered dates adopted by the Commission for providers’ compliance with the rate cap and site commission reforms adopted in the *2024 IPCS Order*, we require IPCS providers to report for each facility, the date on which each facility became subject to the Commission’s new IPCS rate caps and site commission reforms. We address each of these matters below.

25. *Interstate and Intrastate Audio and Video IPCS.* In the *August 2023 Public Notice*, we proposed to require IPCS providers to submit interstate and intrastate IPCS rates for audio services across a number of categories, including: (i) highest 15-minute rate; (ii) highest year-end 15-minute rate; and (iii) average per-minute rate.⁷⁰ We also proposed using the same reporting approach for video IPCS because “providers are already familiar with the[] reporting categories for audio IPCS” such that “using the same rate reporting approach for video IPCS will help minimize burdens associated with reporting this additional information regarding their video services.”⁷¹

⁶⁵ Securus Sept. 8, 2023 Comments at 6.

⁶⁶ *Id.*

⁶⁷ *Id.* at 7.

⁶⁸ *Id.*

⁶⁹ See, e.g., *id.* at 6-10; Securus Nov. 4, 2024 Comments at 3-6; ViaPath Sept. 8, 2023 Comments at 5-6; ViaPath Nov. 4, 2024 Comments at 4.

⁷⁰ *August 2023 Public Notice*, 38 FCC Rcd at 6736.

⁷¹ *Id.* at 6737.

26. Some commenters contend that the proposed categories of rate data would be unnecessarily burdensome.⁷² ViaPath argues that the burden imposed by the proposed categories of rate data is not justified given the limited utility of the resulting data.⁷³ ViaPath also notes that it “does not maintain historical rate data in 15-minute increments.”⁷⁴ To reduce the burden, ViaPath suggests that we only require providers to report the highest per-minute rate charged at a facility during the calendar year and eliminate the need for providers to calculate 15-minute increments.⁷⁵ Securus contends that the collection of rate data “can be significantly streamlined without impairing the ability of the Commission to obtain meaningful information.”⁷⁶ It argues that we should “require providers to identify their per-minute rate for each facility and the cost of a 15-minute call” and suggests that we “abandon requiring the highest year-end rates as those seldom differ and the relevance of that information is unclear.”⁷⁷ Securus also notes that “the current template is outdated as most providers no longer charge separate rates for the first minute of a call and remaining minutes.”⁷⁸

27. We agree with ViaPath that “the highest per-minute rate charged at the facility during the calendar year . . . will confirm whether an IPCS provider is in compliance with the Commission’s rate cap rules in effect at that time.”⁷⁹ Accordingly, we streamline the proposed rate categories to require IPCS providers only to report their highest per-minute audio and video IPCS rates at each facility for the calendar year. We eliminate the need to report rate information in 15-minute intervals, to calculate an average per-minute rate, and to report the first minute rate and the rate for additional minutes. Nothing in the record indicates that reporting interstate and intrastate audio and video IPCS rates in 15-minute intervals or requiring the calculation of an average per-minute rate is necessary to ensure compliance with the Commission’s rules. And, as ViaPath notes, these calculations may be “laborious” for certain providers.⁸⁰ Furthermore, as Securus notes, most providers no longer charge separate rates for the first minute of a communication and remaining minutes, rendering this information of little utility in determining compliance with the Commission’s IPCS rate caps.⁸¹ We are therefore persuaded that streamlining the reporting in this way should provide the Commission with information sufficient to determine providers’ compliance with its IPCS rules while reducing reporting burdens on IPCS providers.

28. With regard to the reporting of video IPCS rates, Securus also argues that the proposed Excel template for reporting video IPCS rates is “unsuited to supply meaningful rate information to the Commission.”⁸² Securus explains that Tab F of the proposed Excel template “recognizes that providers’

⁷² See Securus Sept. 8, 2023 Comments at 7; Securus Sept. 25, 2023 Reply at 4; ViaPath Sept. 8, 2023 Comments at 5.

⁷³ See ViaPath Sept. 8, 2023 Comments at 5.

⁷⁴ *Id.*; ViaPath Nov. 4, 2024 Comments at 4-5.

⁷⁵ See ViaPath Sept. 8, 2023 Comments at 6; Securus Sept. 25, 2023 Reply at 4 (supporting ViaPath’s proposal).

⁷⁶ Securus Nov. 4, 2024 Comments at 4; *see also* ViaPath Reply, WC Docket Nos. 23-62 and 12-375, at 2 (rec. Dec. 9, 2024) (ViaPath Dec. 9, 2024 Reply) (urging the Bureau to “eliminate unnecessary burdens on providers that produce no corresponding public interest benefit or do not support the intended purpose of the Annual Report requirement”).

⁷⁷ Securus Nov. 4, 2024 Comments at 4.

⁷⁸ *Id.*

⁷⁹ ViaPath Nov. 4, 2024 Comments at 4.

⁸⁰ *Id.*

⁸¹ Securus Nov. 4, 2024 Comments at 4. To the extent a provider charges a different first minute rate and that rate is higher than the rate for subsequent minutes, that first minute rate would be reported as the highest per-minute rate for that facility.

⁸² Securus Sept. 8, 2023 Comments at 7.

unit of sale of Video IPCS may not be per-minute rates but per-session rates.”⁸³ But, Securus contends that the worksheet “requires providers to enter the cost of the session as if it was 15 minutes, no matter the actual unit of sale.”⁸⁴ Securus suggests that the Commission “have a method to enter per session rate information or other alternatives to per minute billing that a provider may have been using.”⁸⁵ Securus also suggests that the “Commission should consider providing separate tabs to reflect the different ways that providers charge for video services.”⁸⁶

29. We find that our approach to the reporting of video IPCS rate data in the instructions and Excel template is consistent with reforms subsequently adopted in the *2024 ICS Order* and therefore moots the concerns Securus raised in 2023. For video IPCS rates, we require IPCS providers to begin reporting those data as of November 19, 2024, which is the date on which the *2024 IPCS Order* became effective, including the requirement to offer video IPCS on a per-minute basis.⁸⁷ Because we do not require providers to report their IPCS video rates prior to the date on which they were required to begin offering that service on a per-minute basis, we decline to adopt the proposed instructions or Excel template that would enable providers to account for potential alternatives to per-minute rate structures that IPCS providers may have been using prior to the effective date of the *2024 IPCS Order*.

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

31. Finally, Securus suggests that we “eliminate the facility-rate in light of the changes in the *2024 IPCS Order*,” which eliminated site commissions.⁸⁸ We agree and remove that requirement from the instructions and Excel template.

32. *International Audio and Video IPCS.* We adjust the instructions and reporting templates to streamline the reporting of international audio and video IPCS rates, consistent with the record.⁸⁹ Securus notes that the “current template requires (on a per-facility basis) identification of international calls by destination, and then the highest, first and additional minute rates and maximum and average termination charge by [q]uarter.”⁹⁰ Securus suggests that the “highly disaggregated nature of the

⁸³ *Id.*

⁸⁴ *Id.* at 7-8.

⁸⁵ Securus Nov. 4, 2024 Comments at 5; Securus Sept. 8, 2023 Comments at 8.

⁸⁶ Securus Sept. 8, 2023 Comments at 8.

⁸⁷ *Wireline Competition Bureau Announces Effective Dates of 2024 Incarcerated People’s Communications Services Order and Comment Dates for 2024 Incarcerated People’s Communications Services Further Notice of Proposed Rulemaking*, Public Notice, DA 24-969, at 1 (WCB Sept. 20, 2024) (*September 20, 2024 Public Notice*); *2024 IPCS Order* at 63-64, para. 124; *id.* at 330, Appx. A, § 64.6010(a).

⁸⁸ Securus Nov. 4, 2024 Comments at 4.

⁸⁹ *Id.* at 5-6 (providing suggestions to streamline international rate information).

⁹⁰ *Id.*

international rate reporting is thus highly burdensome and requires reporting of insignificant detail.”⁹¹ To streamline the reporting of international rate information, Securus recommends that the Excel template have two tabs: one for facility information and a second for termination charges.⁹² The first tab would initially ask if a facility allows international calling.⁹³ A “no” answer would eliminate the need for further reporting of international rate data for that facility.⁹⁴ Another question would ask whether the interstate portion of the international rate is the same as the applicable interstate rate.⁹⁵ A “yes” answer would mean the provider would not need to report further information regarding the interstate portion of the international rate, while a “no” answer would be subject to further explanation in the Word template.⁹⁶ Another column would determine whether any rates are above the applicable rate caps and would require specifying rates only if the provider indicates that a rate is above the rate cap.⁹⁷ In the second tab, providers would report their average quarterly termination charges for each international destination.⁹⁸ In connection with video IPCS, Securus suggests the addition of a preliminary question asking whether the provider offers international video IPCS.⁹⁹ If a provider answers “no,” then there would be no need to complete that relevant tab.¹⁰⁰ Finally, Securus suggests that we clarify the proposed requirement to explain how IPCS providers market video IPCS to consumers, including any bundles.¹⁰¹

33. We adopt a modified version of Securus’s proposal, which we find will substantially streamline the reporting of international audio and video IPCS rates while at the same time providing the Commission with sufficient data with which to determine compliance with its IPCS rules and monitor industry trends. As an initial matter, we adopt Securus’s proposal that we request quarterly international termination data by destination rather than by facility.¹⁰² This change will eliminate the need for providers to provide data on each international destination at each facility.

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

35. To streamline reporting obligations in connection with international audio IPCS, we

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.* at 5-6.

⁹⁷ *Id.* at 5.

⁹⁸ *Id.* at 6.

⁹⁹ Securus Sept. 8, 2023 Comments at 9.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Securus Nov. 4, 2024 Comments at 6.

instruct providers to indicate whether the rate for the interstate portion of the international rate is the same as the applicable interstate rate the provider charges. If the provider answers “yes,” the instructions explain that the IPCS provider does not need to report its highest interstate per-minute rates in Tab D for each calendar quarter. This question reduces the need for providers to enter the same information twice. If a provider answers “no” we have included a Word template question directing providers to explain how the interstate portion of its international rate differed from its interstate rate.¹⁰³ We then direct providers to report termination charges on a quarterly basis for each international destination, as suggested by Securus.¹⁰⁴

36. To streamline reporting obligations in connection with international video IPCS, we adopt a similar reporting structure as for international audio IPCS, however with additional questions intended to more accurately capture the development, deployment, and marketplace practices for video IPCS. We include a question in Tab F asking whether a provider’s international video IPCS rates are the same as its interstate video rates. As indicated in the revised instructions, a provider should select “yes” only if its interstate rates are the same as its international video IPCS rates and if the provider does not charge or pass through termination charges for completing international video IPCS communications. If a provider selects “yes,” it will not be required to report its highest interstate per-minute rates in Tab F as the Commission will have collected interstate video rates in a separate tab. To account for scenarios in which providers may charge different rates for the interstate portion of an international video IPCS communication and interstate rates for video IPCS, we ask a similar “yes” or “no” question as with audio IPCS and direct providers to respond in the Word template to explain any differences. In a similar vein, we include an additional question in Tab F, which directs providers to indicate whether they impose international termination charges for video IPCS.¹⁰⁵ If a provider does not impose international termination charges for video IPCS, then they are not required to report their quarterly average termination charges.

37. Finally, we decline to require IPCS providers to explain how they market video IPCS to consumers, including any bundles, as originally proposed. We find that gathering such data is unnecessary due to the rules the Commission adopted in the *2024 IPCS Order*, which require providers to offer rates for video IPCS on a per-minute basis.¹⁰⁶ Separately, we find that the information we direct providers to provide related to any alternate pricing plans offered in addition to per-minute video IPCS covers how those services are marketed differently. Thus, Securus’s request that we clarify what “bundling” means is moot.

38. *Compliance Dates.* In the *2024 IPCS Order*, the Commission adopted staggered compliance dates for its new audio and video IPCS rate caps and the elimination of site commission payments.¹⁰⁷ These compliance dates range from January 1, 2025 to April 1, 2026. Thus, starting in 2025, there may be periods during which some IPCS providers are not subject to the Commission’s new IPCS rate caps and prohibition on the payment of site commissions associated with IPCS. To enhance the Commission’s ability to monitor compliance with its new rate caps and site commission reforms, we require IPCS providers to provide, for each facility subject to these reforms as of the end of the reporting

¹⁰³ *Id.* (explaining that “any ‘no’ answer regarding the domestic portion can be listed in the Word template”). Because the streamlined reporting obligations we adopt today seek the highest per-minute rates providers charge, we need not include a column in the Excel template asking IPCS providers to indicate whether they charge rates above the applicable rate caps. *Id.* at 5. In obtaining the highest per-minute rate, the Commission should have sufficient information to determine if there are rates being charged that are above the applicable caps.

¹⁰⁴ *Id.* at 6.

¹⁰⁵ Securus Sept. 8, 2023 Comments at 9 (explaining that Securus does not impose international termination charges for video IPCS).

¹⁰⁶ *2024 IPCS Order* at 59-60, paras. 117 and 119.

¹⁰⁷ 47 CFR §§ 64.6010(d), 64.6015; *2024 IPCS Order* at 304-08, paras. 587-96.

period in question, the date by which it was required to comply with the Commission's new rate caps and site commission reforms, beginning with the 2026 Annual Reports.¹⁰⁸ We have therefore added a column in Tab B of the Excel template in which to report this information. For purposes of the 2025 Annual Reports (providing information for calendar year 2024), however, we do not require IPCS providers to provide compliance dates.

4. Ancillary Service Charges

39. We streamline the reporting of ancillary service charges by requiring providers to indicate in the Excel template whether they, or any subcontractors they use, assessed ancillary service charges in connection with audio and/or video IPCS during the reporting period following the effective date of the prohibition on such charges. If a provider answers "yes," the instructions direct them to complete a Word template question explaining those charges. If a provider answers "no," then nothing further is required. This is consistent with Securus's suggestion that we add a preliminary question to the tabs seeking information on ancillary service charges asking whether the provider imposed ancillary service charges with respect to video IPCS.¹⁰⁹

40. At the same time, we decline to fully eliminate separate reporting for ancillary services as Securus requests.¹¹⁰ As is well documented throughout these proceedings, ancillary service charges have been the center of discussion around potential abuses which ultimately result in furthering the economic burdens faced by the incarcerated and their friends, families, and loved ones. While the Commission eliminated separate ancillary service charges in the *2024 IPCS Order*, the Annual Reports are used to monitor compliance with the Commission's rules, including prohibitions such as those now in effect for ancillary service charges.¹¹¹ We therefore eliminate existing ancillary service charge reporting obligations and instead require providers to respond to the streamlined instructions as described above. We find that the burden of completing the "yes" or "no" question for 2024 and in subsequent years should be minimal, and will help the Commission continue to monitor compliance with its rules.¹¹²

5. Site Commissions

41. We take the same approach with site commissions that we take with ancillary service charges by requiring providers to indicate in the Excel template whether they paid site commissions associated with audio and/or video IPCS during the reporting period. If a provider answers "yes," the instructions direct them to complete a Word template question explaining those charges. If a provider answers "no," then nothing further is required. This is a significant reduction from the site commissions reporting initially proposed, which, among other things, would have required IPCS providers to:

- (1) report their average total monthly site commission payments on a facility-by-facility basis;

¹⁰⁸ See *September 11, 2024 Public Notice* at 2-3 (seeking comment on modifications needed to keep the annual reports consistent with the rules adopted in the *2024 IPCS Order*, including the staggered compliance dates adopted in the order). Identifying the compliance date applicable to each facility is critical to ascertaining providers' compliance with the applicable rate cap and site commission rules. Providers are not required to report compliance dates prospectively; they are only required to report compliance dates that occur either during or prior to the reporting period in question.

¹⁰⁹ Securus Sept. 8, 2023 Comments at 9.

¹¹⁰ Securus Nov. 4, 2024 Comments at 2 (suggesting that the Commission eliminate such reporting "in light of the *2024 IPCS Order*'s elimination of separate ancillary service charges associated with IPCS").

¹¹¹ 47 CFR § 64.6060(a).

¹¹² See *2024 IPCS Order* at 297, para. 571 (the annual reports are "to provide useful transparency into industry practices and guide Commission efforts to regulate the industry"). In this case, the 2025 Annual Reports will require the submission of calendar year 2024 data, during which IPCS providers could charge separately for their ancillary services until November 19, 2024, the effective date of the Commission's IPCS reforms concerning ancillary services in the *2024 IPCS Order*. See *September 20, 2024 Public Notice*.

(2) separate those payments between legally mandated and contractually prescribed site commission payments; (3) subdivide both types of payments between monetary and in-kind payments; and (4) within those subdivisions, to report the portions of the payments that were either fixed or variable.¹¹³

42. Securus argues that because of the Commission's elimination of site commissions in the *2024 IPCS Order*, "information regarding them for the 2024 calendar year will not provide relevant data points."¹¹⁴ We disagree. While it is true that the Commission eliminated site commission payments associated with IPCS in the *2024 IPCS Order*, compliance with that requirement is not required until January 1, 2025 at the earliest and April 1, 2026 at the latest.¹¹⁵ Thus, for calendar year 2024, IPCS providers were permitted to pay site commissions. And due to the staggered compliance dates with respect to the elimination of site commissions, there likely will be periods in 2025 and 2026 in which some IPCS providers will still be paying site commissions. We thus find it appropriate to collect information about providers' site commission payments, as described above. After all of the compliance dates have passed and the prohibition on site commissions is in effect for all IPCS contracts, the burden of completing the yes or no question should be minimal and the providers' responses will help the Commission to monitor compliance with its site commission rule.

6. Disability Access and Related Considerations

43. The revised instructions modify providers' reporting obligations regarding the provision of TTY-based TRS and TTY-to-TTY calling for incarcerated people with hearing and speech disabilities, including any ancillary service charges that providers have assessed for or in connection with TTY-based calls. Consistent with the Bureaus' proposal and the *2022 ICS Order*, providers are no longer required to report the number of dropped calls for TTY-based TRS or TTY-to-TTY calling, but are still required to report the number of calls and number of complaints related to TTY-based TRS and TTY-to-TTY calling.¹¹⁶

44. Further, the revised instructions and the Excel template reflect the 2022 reforms to the Commission's rules.¹¹⁷ The "Disability Access" worksheet of the Excel template requires providers to report, on a facility-by-facility basis, for each of the six kinds of TRS authorized by the Commission,¹¹⁸

¹¹³ See *August 2023 Public Notice*, 38 FCC Rcd at 6738.

¹¹⁴ Securus Nov. 4, 2024 Comments at 2.

¹¹⁵ See 47 CFR § 64.6015; *2024 IPCS Order* at 305-05, para. 587.

¹¹⁶ See *August 2023 Public Notice*, 38 FCC Rcd at 6738; *2022 ICS Order*, 37 FCC Rcd at 11923, para. 50. As the Commission explained in the *2024 IPCS Order*, the Commission had determined in the *2022 ICS Order* "that it was no longer necessary to collect data on dropped calls," and so adopted corresponding modifications to 47 CFR § 64.6060(a)(5)-(7). *2024 IPCS Order* at 295, para. 566 n.2025. However, at the time the Commission adopted the *2024 IPCS Order*, the changes to those paragraphs "ha[d] not yet gone into effect," as the Commission declined to "seek Paperwork Reduction Act review by the Office of Management and Budget until an order is released adopting any changes" to the annual reporting forms. *Id.* Consequently, in the *2024 IPCS Order*, the Commission retained the revised reporting requirements adopted in the *2022 ICS Order*, but renumbered them as section 64.6060(a)(2)-(4). *Id.* at 297, para. 570.

¹¹⁷ See *2022 ICS Order*, 37 FCC Rcd at 11977, Appx. B, § 64.6060(a)(5)-(7); 47 CFR § 64.6040(b). As noted above, this modification is consistent with the changes adopted in the *2024 IPCS Order*, which incorporated the modifications to the annual reporting requirements adopted in the *2022 ICS Order*. See *2024 IPCS Order* at 297, para. 570.

¹¹⁸ TRS and the various kinds of TRS are defined in section 64.601 of the Commission's rules. 47 CFR § 64.601. The six kinds of TRS are: Internet Protocol Captioned Telephone Service (IP CTS); Internet Protocol Relay Service (IP Relay); Speech-to-Speech Relay Service (STS); Traditional (TTY-Based) TRS; Video Relay Service (VRS); and Non-Internet Protocol Captioned Telephone Service (Non-IP CTS). *Id.* § 64.601(a)(25), (26), (43), (46), (53); *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling, 18 FCC Rcd 16121, 16122, para. 3 (2003).

(1) whether the service was available for use at the facility during the reporting period, (2) the number of calls made using the service, and (3) the number of complaints regarding the service. The same information is now collected for point-to-point ASL video service and for TTY-to-TTY calling.

45. Securus argues that the Commission should eliminate the columns seeking information regarding ancillary services in connection with TTY-based TRS or TTY-to-TTY calling, including the jurisdiction column.¹¹⁹ We find that Securus's proposal would result in eliminating reporting of ancillary service charges associated with disability access entirely, leaving the Commission without the ability to monitor compliance. We recognize, however, that the reporting of this information presents a significant burden on providers and the resulting data is of limited utility for the Commission. Accordingly, we adopt less burdensome reporting instructions for ancillary service charges associated with billed TTY-to-TTY calling or TTY-based TRS that are similar to those we use for such charges associated with audio IPCS and video IPCS.¹²⁰ Providers need only respond to a "yes" or "no" question and complete a narrative response in the Word template if they assessed ancillary service charges associated with billed TTY-to-TTY calling or TTY-based TRS after November 19, 2024.

46. ViaPath expresses concern about the availability of certain information in connection with TRS-related calls. ViaPath explains that while "IPCS providers can report the types of TRS available in each facility, they may not have access to information regarding the number of TRS-related calls or complaints."¹²¹ This is because "[d]eployment of advanced TRS capability in correctional facilities cannot be accomplished without a third-party TRS provider."¹²² ViaPath suggests that the third-party TRS provider is "the appropriate entity from which to obtain information regarding the number of disability access communications in a correctional facility and any associated complaints."¹²³ The Commission's IPCS rules apply to IPCS providers, not third-party TRS providers.¹²⁴ Given IPCS providers' obligations under the Commission's rules to ensure access to TRS, and the fact that TRS providers cannot provide their service without coordinating with IPCS providers, we find that IPCS providers are in the best position to obtain and to report this information.¹²⁵ To the extent they cannot, they are free to explain why they cannot do so in the Word template for the Commission's consideration.

7. Other Issues

47. *Revenue, Cost, Usage, or Similar Data for Video IPCS.* We decline to collect data regarding the costs, revenues, usage or other similar categories of data for video IPCS through the Annual Reports. One commenter suggests that the Commission require the reporting of a wide range of data designed to determine the costs associated with video IPCS, including cost, revenue, and usage data for all services provided on kiosks or tablets and data regarding the safety and security costs specific to the

¹¹⁹ Securus Nov. 4, 2024 Comments at 3.

¹²⁰ The reporting structure we adopt for this category of information mirrors the same structure we adopt for audio IPCS and video IPCS for the period following the Nov. 19, 2024 effective date; we instruct providers to report if they charge any associated ancillary service charges after the prohibition took effect, and if so, we require them to report additionally in the Word template.

¹²¹ ViaPath Nov. 4, 2024 Comments at 3.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *See, e.g.*, 47 CFR § 64.6060(a) (requiring "Providers" to submit annual reports).

¹²⁵ IPCS providers must make all necessary contractual and technical arrangements for ensuring access to TRS, and such arrangements should include access to necessary data for ensuring the requirements for access and use of TRS are met. 47 CFR § 64.6040(c)(1); *see also* 47 CFR § 64.6060 (setting forth the rules on the annual reporting requirement).

provision of video IPCS.¹²⁶ Another commenter similarly argues that the Commission should require IPCS providers to submit, among other things, information about the use of kiosks and tablets for video calling and the breakdown between fixed and variable costs of providing IPCS.¹²⁷ However, even to the extent that we might find it appropriate to expand the Annual Reports to collect such data, it is not clear at this time that the benefit of collecting such data in this context would outweigh the burden it would impose, given, for example, the developing nature of the video IPCS market.¹²⁸ Indeed, cost of service issues for video IPCS await further consideration by the Commission following the additional mandatory data collection that the Commission required in the *2024 IPCS Order*,¹²⁹ and review of the record being developed in response to the *2024 IPCS Notice*.¹³⁰ In these circumstances, we find that the better course is to collect revenue, cost, usage, and similar data for video IPCS through the upcoming mandatory data collection, where, for example, we can provide detailed instructions on how providers should calculate their costs of providing video IPCS and any safety and security measures specific to the provision of video IPCS. Thus, we decline to require reporting of such information in the Annual Reports at this time.

48. *Quality of Service.* For similar reasons, we also decline to request quality of service data in the annual reports as some commenters suggest.¹³¹ This, too, is an issue pending further consideration by the Commission in the *2024 IPCS Notice* and is thus inappropriate for inclusion in the annual reporting requirements at this time.¹³²

49. *Payments from IPCS Providers to Correctional Facilities.* One commenter argues that we should request data on payments from IPCS providers to correctional agencies for used and useful costs they incur in the provision of IPCS as a means to better understand whether the Commission should adopt a uniform rate additive to account for used and useful correctional facility costs.¹³³ As noted above, collecting what is in effect data on the costs incurred by correctional agencies to provide IPCS is beyond

¹²⁶ Worth Rises Comments, WC Docket Nos. 23-62 and 12-375, at 2-3 (rec. Nov. 4, 2024) (Worth Rises Nov. 4, 2024 Comments); *see also* Wright Petitioners Reply, WC Docket Nos. 23-62 and 12-375, at 2 (rec. Dec. 9, 2024) (Wright Petitioners Dec. 9, 2024 Reply). Other commenters argue that collecting such data is inappropriate for the Annual Reports. *See* ViaPath Dec. 9, 2024 Reply at 2 (contending that “revenue and cost data . . . are not appropriate for inclusion in the Annual Report, which is intended to help the Commission monitor and track trends in the IPCS marketplace, increase provider transparency, and ensure compliance with the Commission’s IPCS rules”); Pay Tel Communications, Inc. Reply, WC Docket Nos. 23-62 and 12-375, at 2-3 (rec. Dec. 9, 2024) (Pay Tel Dec. 9, 2024 Reply) (“The collection of cost data is conducted through the Commission’s periodic mandatory data collections.”).

¹²⁷ Wright Petitioners Comments, WC Docket Nos. 23-62 and 12-275, at 2-3 (rec. Nov. 4, 2024) (Wright Petitioners Nov. 4, 2024 Comments).

¹²⁸ *See, e.g., 2024 IPCS Order* at 63, 109-10, paras. 123, 196 (discussing factors indicating that “video IPCS remains a developing marketplace,” making it likely that providers’ costs will change substantially as the market becomes more established); *id.* at 382-405, 410-14, Appendices F, H.

¹²⁹ *Id.* at 298-300, paras. 573-75; *see also* Securus Dec. 9, 2024 Reply at 3 (asserting that the “cost reporting for video or audio IPCS should be determined as part of the process of developing the next data collection”).

¹³⁰ *2024 IPCS Notice* at 312-14, paras. 608-11 (seeking comment on establishing permanent rate caps for video IPCS).

¹³¹ Worth Rises Nov. 4, 2024 Comments at 5 (asking the Commission to “ask video IPCS providers to submit data on video call quality”); UCC Media Justice Comments, WC Docket Nos. 23-62 and 12-375, at 1 (rec. Nov. 4, 2024) (UCC Media Justice Nov. 4, 2024 Comments) (suggesting that the Commission ask for information “about the quality of both audio IPCS and video IPCS”); *but see* Securus Dec. 9, 2024 Reply at 7-9.

¹³² *2024 IPCS Notice* at 314-16, paras. 613-16; Securus Dec. 9, 2024 Reply at 8 (“The question of which, if any, [service quality] metrics may be appropriate is currently subject to the *Further Notice*.”); ViaPath Dec. 9, 2024 Reply at 3; Pay Tel Dec. 9, 2024 Reply at 3-4.

¹³³ Worth Rises Nov. 4, 2024 Comments at 4; *but see* ViaPath Dec. 9, 2024 Reply at 4.

the scope of the Annual Reports, which are focused primarily on providers' rate data and compliance with Commission rules. The more appropriate setting for determining whether to collect such data would be in the context of the upcoming mandatory data collection. We therefore decline to seek such information in the context of the Annual Reports at this time.

50. *Audited Financial Statements.* We also decline to require IPCS providers to submit audited financial statements as part of their Annual Reports. The Wright Petitioners note that IPCS providers were required to submit audited financial statements as part of the 2023 Mandatory Data Collection.¹³⁴ They argue that the financial statements "contain important information that can be helpful to the Commission's ongoing efforts to ensure that IPCS rates are just and reasonable and providers are fairly compensated."¹³⁵ ViaPath argues that "[w]hile such information may have been appropriate for a Mandatory Data Collection to allow the Commission to review revenues, costs and expenses, such information is not needed to ensure compliance with the Commission's IPCS rules."¹³⁶ We agree that requiring audited financial statements, while appropriate in the context of a data collection to determine the costs of service, are not necessary for the Commission to determine compliance with its IPCS rules in the Annual Reports or to monitor trends in the industry.

51. *Excel Template and Certification Form.* The Excel template we adopt today includes other minor changes designed to help reduce burdens and minimize provider error when completing the worksheets. For instance, the template includes "drop-down" menus for data entry when there are only a few answer options. It also includes new cell formatting that restricts the data that can be entered (e.g., numbers vs. text), which should help prevent inadvertent errors when completing the forms. For the worksheets that include rates paid for IPCS calls to international destinations, we now require providers to enter their international destinations only once for each worksheet, instead of repeating this information multiple times on each worksheet. We likewise adopt other minor updates to the certification form (e.g., inserting the word "Authorized" before "Officer").¹³⁷

C. Extension of Filing Deadline

52. On our own motion, the Bureaus waive section 64.6060(a) of the Commission's rules for the limited purpose of granting a one-time extension of the filing deadline for the 2025 IPCS Annual Reports from April 1, 2025 to Monday, June 2, 2025.¹³⁸ Generally, the Commission's rules may be waived for good cause shown.¹³⁹ In evaluating whether good cause exists for waiver of its rules, the Commission considers whether the particular facts make strict compliance inconsistent with the public interest.¹⁴⁰ The Commission may also take into account concerns of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁴¹ Waiver of the Commission's rules is therefore only appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.¹⁴²

53. We find good cause to waive section 64.6060(a) of the Commission's rules to extend the deadline for filing the 2025 IPCS Annual Reports to June 2, 2025. Under the Commission's rules,

¹³⁴ Wright Petitioners Nov. 4, 2024 Comments at 3-4; Wright Petitioners Dec. 9, 2024 Reply at 3.

¹³⁵ Wright Petitioners Nov. 4, 2024 Comments at 4.

¹³⁶ ViaPath Nov. 4, 2024 Comments at 6; Securus Dec. 9, 2024 Reply at 9.

¹³⁷ See *infra* Appx. A.

¹³⁸ 47 C.F.R. §§ 1.3, 64.6060(a). See also 47 C.F.R. §§ 0.291, 0.91.

¹³⁹ 47 C.F.R. § 1.3.

¹⁴⁰ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁴¹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹⁴² *Northeast Cellular*, 897 F.2d at 1166.

Annual Reports are due April 1 of each year.¹⁴³ However, the Annual Reports that are due in 2025 will be the first Annual Reports for which IPCS providers will be required to use the revised instructions, templates, and certification forms adopted herein reflecting the Commission's expanded authority over IPCS pursuant to the Martha Wright-Reed Act. The Annual Reports "enable the Commission to monitor and track trends in the IPCS marketplace, increase provider transparency, and ensure compliance with the Commission's rules."¹⁴⁴ It is therefore vital that the Commission receive complete and accurate data to ensure IPCS rates are just and reasonable and IPCS providers are fairly compensated. Considering these objectives, we find good cause to waive the Commission's rules and extend the deadline for filing the 2025 Annual Reports. Doing so will make it more likely that the Commission receives complete and accurate data enabling it to monitor IPCS providers' compliance with the Commission's IPCS rules. At the same time, given the timing of the release of this Order and the additional delay involved in obtaining approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of this revised data collection, extending the April 1 deadline to June 2, 2025 should give providers sufficient time to compile their data submissions using the revised instructions, templates, and certification forms.¹⁴⁵

D. Effective Date and Implementation Date

54. Because this Order imposes new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA),¹⁴⁶ its effective date will be dependent upon approval by the Office of Management and Budget (OMB). After such review, the Bureaus will publish a document in the Federal Register establishing the date of such publication as the effective date of the requirements adopted in this Order.

IV. PROCEDURAL MATTERS

55. *Supplemental Final Regulatory Flexibility Act Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹⁴⁷ we have prepared a Supplemental Final Regulatory Flexibility Analysis (FRFA) relating to this Order.¹⁴⁸ The Supplemental FRFA is set forth in Appendix B.

56. *Final Paperwork Reduction Act Analysis.* The Order contains new or modified information collection requirements subject to the PRA. It will be submitted to OMB for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198; *see* 44 U.S.C. § 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.¹⁴⁹ We have assessed the effects of the requirements for Annual Reports and certifications on small business concerns, including those having fewer than 25 employees, and find that to the extent such entities are

¹⁴³ 47 C.F.R. § 64.6060(a).

¹⁴⁴ *August 2023 Public Notice*, 38 FCC Rcd at 6732.

¹⁴⁵ *See, e.g.*, Pay Tel September 2023 Reply at 5 (noting that that the regulatory burden associated with new reporting requirements particularly impacts small [IPCS] providers such as Pay Tel, who lacked the dedicated data collection and reporting resources employed by larger providers").

¹⁴⁶ Pub. L. No. 104-13 (codified at 44 U.S.C. § 3501 *et seq.*).

¹⁴⁷ *See* 5 U.S.C. §§ 601-612.

¹⁴⁸ *See id.* § 604. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

¹⁴⁹ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order on Remand and Fourth Further Notice of Proposed Rulemaking, 35 FCC Rcd 8485, 8536-37, para. 146 (2020).

subject to those requirements, any further reduction in the burden of the collection would be inconsistent with the objectives behind the collection.

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

V. ORDERING CLAUSES

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

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

60. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Order, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau

Alejandro Roark
Chief
Consumer and Governmental Affairs Bureau

APPENDIX A**Annual Reporting and Certification Instructions and Templates**

The instructions and templates for the Annual Report are available at this link:

<https://www.fcc.gov/document/annual-report-instructions>

APPENDIX B

Supplemental Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹⁵⁰ a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) was incorporated in the *August 2023 Public Notice*, released in August 2023.¹⁵¹ The Wireline Competition Bureau (WCB) and the Consumer and Governmental Affairs Bureau (CGB) (collectively, the Bureaus) sought written public comment on the proposals in the *August 2023 Public Notice* and the *September 2024 Public Notice*, including comments on the Supplemental IRFA.¹⁵² No comments were filed addressing the Supplemental IRFA. We received comments and reply comments on the proposals in the *August 2023 Public Notice* from Securus Technologies, LLC (Securus), Global Tel*Link Corporation D/B/A ViaPath Technologies (ViaPath), and Pay Tel Communications, Inc. (Pay Tel). These comments are addressed herein. We received comments and reply comments on proposals in the *September 2024 Public Notice* from Securus, ViaPath, the Wright Petitioners, Worth Rises, Pay Tel, and the United Church of Christ Media Justice Ministry. This Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) conforms to the RFA.¹⁵³

A. Need for, and Objectives of, the Order

2. In this Order, WCB and CGB adopt revisions to the instructions, reporting template, and certification form for the Annual Reports and certifications submitted by providers of incarcerated people's communications services (IPCS). In issuing this Order, we act pursuant to the Commission's delegation of authority to the Bureaus to modify, supplement, and update the Annual Report instructions, templates, and certification form, as appropriate, to reflect revised rules adopted in the *2022 ICS Order*¹⁵⁴ and the Commission's expanded authority under the Martha Wright-Reed Just and Reasonable Communications Act of 2022 (Martha Wright-Reed Act or Act).¹⁵⁵

3. In the *2022 ICS Order*, the Commission adopted requirements that necessitated further changes to the Annual Reporting instructions, reporting templates, and certification form.¹⁵⁶ These requirements improve access to communications services for incarcerated people with communication disabilities by, for example, requiring IPCS providers to list, at a minimum, for each facility served, the types of TRS that can be accessed from the facility and the number of completed calls and complaints for TTY-to-TTY calling, point-to-point American Sign Language (ASL) video calls, and each type of TRS for which access is provided.¹⁵⁷ The Commission delegated authority to the Bureaus to implement the

¹⁵⁰ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

¹⁵¹ *Wireline Competition Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Revisions to Providers' Annual Reporting And Certification Requirements*, WC Docket Nos. 23-62 and 12-375, Public Notice, 38 FCC Rcd 6732 (WCB/CGB 2023) (*August 2023 Public Notice*).

¹⁵² *Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62 and 12-375, Public Notice, DA 24-918 (WCB/CGB Sept. 11, 2024) (*September 2024 Public Notice*).

¹⁵³ See 5 U.S.C. § 604.

¹⁵⁴ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Fourth Report and Order and Sixth Further Notice of Proposed Rulemaking, 37 FCC Rcd 11900, 11922-24, paras. 47-52 (2022) (*2022 ICS Order*).

¹⁵⁵ Martha Wright-Reed Just and Reasonable Communications Act of 2022, Pub. L. No. 117-338, 136 Stat. 6156 (2022) (Martha Wright-Reed Act).

¹⁵⁶ See generally *2022 ICS Order passim*.

¹⁵⁷ *Id.* at 11922, para. 48. The Commission also eliminated the safe harbor, adopted in 2015, that had exempted providers from any TRS-related reporting requirements if they either (1) operated in a facility that allowed the offering of additional forms of TRS beyond those mandated by the Commission or (2) had not received any

(continued....)

expanded reporting obligations and to develop a reporting form that will most efficiently and effectively elicit the required information.¹⁵⁸

4. On January 5, 2023, the President signed into law the Martha Wright-Reed Act, which expanded the Commission's statutory authority over communications between incarcerated people and the non-incarcerated, including "any audio or video communications service used by inmates . . . regardless of technology used."¹⁵⁹ The new Act also amends section 2(b) of the Communications Act of 1934, as amended (the Communications Act), to make clear that the Commission's authority extends to intrastate as well as interstate and international communications services used by incarcerated people.¹⁶⁰

5. The Act directs the Commission to "promulgate any regulations necessary to implement" the Act, including its mandate that the Commission establish a "compensation plan" ensuring that all rates and charges for IPCS "are just and reasonable," not earlier than 18 months and not later than 24 months after the Act's January 5, 2023 enactment date.¹⁶¹ The Act also requires the Commission to consider, as part of its implementation, the costs of "necessary" safety and security measures, as well as "differences in costs" based on facility size, or "other characteristics."¹⁶² It also allows the Commission to "use industry-wide average costs of telephone service and advanced communications services and the average costs of service of a communications service provider" in determining just and reasonable rates.¹⁶³

6. Pursuant to the directive that the Commission implement the new Act and establish just and reasonable rates for IPCS services, the Commission released the *2023 IPCS Notice*, seeking comment on how to interpret the Act's language to ensure that the Commission implements the statute in a manner that fulfills Congress's intent.¹⁶⁴ The Commission also adopted the *2023 IPCS Order* in which it reaffirmed and updated its prior delegation of authority to the Bureaus to revise the instructions and reporting templates for the Annual Reports.¹⁶⁵ Specifically, the Commission delegated to the Bureaus authority to modify, supplement, and update the instructions and templates for the Annual Reports.¹⁶⁶ On August 3, 2023, the Bureaus released a Public Notice seeking comment on proposed revisions to the instructions and templates for the Annual Reports and annual certifications.¹⁶⁷ In response to the *August 2023 Public*

(Continued from previous page)

complaints related to TRS calls. *2022 ICS Order*, 37 FCC Rcd at 11923-24, para. 51 (citing *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, 12883, para. 246 (2015) (*2015 ICS Order*)). A provider that fell within the safe harbor was required to include a certification from an officer of the company stating which prong(s) of the safe harbor it had met. *Id.* The Commission found that the safe harbor was no longer appropriate given the expanded reporting requirement for additional forms of TRS, and the importance of transparency regarding the state of accessible communications in incarceration settings. *Id.*

¹⁵⁸ *2022 ICS Order*, 37 FCC Rcd at 11924, para. 52.

¹⁵⁹ Martha Wright-Reed Act § 2(a)(2), (b).

¹⁶⁰ *Id.* § 2(c).

¹⁶¹ *Id.* §§ 2, 3(a); 47 U.S.C. § 276(b)(1)(A).

¹⁶² Martha Wright-Reed Act § 3(b)(2).

¹⁶³ *Id.* § 3(b)(1).

¹⁶⁴ *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62 and 12-375, Notice of Proposed Rulemaking and Order, 38 FCC Rcd 2669 (2023) (*2023 IPCS Order* or *2023 IPCS Notice*).

¹⁶⁵ *2023 IPCS Order*, 38 FCC Rcd at 2702, para. 86.

¹⁶⁶ *Id.*

¹⁶⁷ See *August 2023 Public Notice*.

Notice, the Bureaus received comments from providers, public interest advocates, and other interested parties.

7. In July 2024, the Commission adopted the *2024 IPCS Order*, which implemented the expanded authority granted to the Commission by the Martha Wright-Reed Act.¹⁶⁸ In that Order, the Commission revised its rules by, *inter alia*:

- Adopting permanent rate caps for audio IPCS and interim rate caps for video IPCS;
- Adopting new facility tiers for both audio and video IPCS;
- Prohibiting providers from imposing any ancillary service charges on IPCS consumers;
- Prohibiting providers from making site commission payments associated with IPCS;
- Allowing providers to offer alternate pricing plans for IPCS subject to certain conditions;
- Revising and strengthening existing consumer disclosure and inactive account requirements; and
- Revising and strengthening IPCS accessibility requirements for incarcerated people with disabilities.¹⁶⁹

8. The *2024 IPCS Order* also modified the scope and content of the Annual Reports to reflect the reforms adopted under the Martha Wright-Reed Act.¹⁷⁰ The Commission expanded its annual reporting and certification requirements to include the full scope of services and providers now subject to the IPCS rules.¹⁷¹ The Commission also eliminated the sections of the annual reporting rules mandating the reporting of information on ancillary service charges and site commissions, to reflect the prohibition of those items adopted in the *2024 IPCS Order*.¹⁷² Finally, the Commission reaffirmed and updated its prior delegation of authority to the Bureaus to revise the Annual Reports, to reflect the Commission's expanded authority under the Martha Wright-Reed Act and the other actions taken in the *2024 IPCS Order*, and directed that the Bureaus pay particular attention to the video IPCS marketplace and the availability and usage of Telecommunications Relay Services (TRS) in exercising this delegated authority.¹⁷³

9. Pursuant to this delegated authority, the Bureaus released the *September 2024 Public Notice* seeking to “expand and refresh the record on revisions to the Annual Report instructions, templates, and certification form, in addition to those proposed in the *August 2023 Public Notice*, and to implement the modifications to the annual reporting and certification requirements adopted by the Commission in the *2024 IPCS Order*.”¹⁷⁴ The Bureaus also sought comment on “any additional modifications the Bureaus should consider to make these forms consistent with the new rules, including the varied compliance dates adopted in the *2024 IPCS Order*.”¹⁷⁵ The Bureaus received comments from IPCS providers, public interest advocates, and other interested parties. Pursuant to its delegated authority, the Bureaus have prepared updates to the annual reporting and certification templates and is issuing the Order to adopt all aspects of these documents.

¹⁶⁸ See generally *2024 IPCS Order*.

¹⁶⁹ See *2024 IPCS Order* at 3-4, paras. 3-4.

¹⁷⁰ *Id.* at 296-300, paras. 565-70.

¹⁷¹ See *id.* at 298, para. 569.

¹⁷² See *id.* at 298, para. 570. The Commission also retained the rules describing the reporting requirements concerning TRS and related communications services, but renumbered them.

¹⁷³ See *id.* at 299-300, paras. 571-72.

¹⁷⁴ *September 2024 Public Notice* at 2.

¹⁷⁵ *Id.* at 2-3.

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

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

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

11. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.¹⁷⁶

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

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

13. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the annual report and certification requirements. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹⁷⁷ In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act.¹⁷⁸ A “small-business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.¹⁷⁹

14. A regulatory Flexibility Analysis was incorporated in the *August 2023 Public Notice*.¹⁸⁰ In this analysis, the Bureaus described in detail the small entities that might be affected. Accordingly, in this Order, for the Supplemental FRFA, we hereby incorporate by reference the descriptions and estimates of the number of small entities from these previous Regulatory Flexibility Analysis.

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

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

¹⁷⁶ 5 U.S.C. § 604(a)(3).

¹⁷⁷ See *id.* § 601(6).

¹⁷⁸ See *id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

¹⁷⁹ See 15 U.S.C. § 632.

¹⁸⁰ See *August 23 Public Notice* at Appx. B (Supplemental Final Regulatory Flexibility Analysis).

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

16. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”¹⁸¹

17. The annual reporting and certification requirements impose a recurring obligation on providers. Because the Commission requires all IPCS providers to submit Annual Reports and certifications, the collection will affect smaller as well as larger IPCS providers. The Bureaus have taken steps to ensure that the reporting template is competitively neutral and not unduly burdensome for any set of providers and have considered the economic impact on small entities, as identified in comments filed in response to the *August 2023 Public Notice* and the *September 2024 Public Notice*, in finalizing the instructions and reporting templates for the annual reports and certifications. In response to the comments, the Bureaus have refined and streamlined certain aspects of the instructions and reporting templates, including significantly reducing audio and video rate reporting requirements and eliminating detailed site commission and ancillary service charge reporting requirements. These modifications avoid unduly burdening responding providers while ensuring that providers have sufficiently detailed and specific instructions to respond to the data collection and that the Commission will continue to have access to the data necessary to monitor industry trends and industry compliance with its rules.

G. Report to Congress

18. The Commission will send a copy of the Order, including this Supplemental FRFA, in a report a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.¹⁸² In addition, the Commission will send a copy of the Order, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order, and Supplemental FRFA (or summaries thereof) will also be published in the Federal Register.¹⁸³

¹⁸¹ 5 U.S.C. § 603(c)(1)-(4).

¹⁸² *Id.* § 801(a)(1)(A).

¹⁸³ *See id.* § 604(b).