Office of Management and Budget has approved the information collection requirements contained in this paragraph. The OMB approval number is 1024–0026. The NPS is collecting this information to provide the Superintendent data necessary to issue ORV special use permits. The information will be used to grant a benefit. The obligation to respond is required to order to obtain the benefit in the form of the ORV permit.

Dated: December 9, 2015.

Karen Hyun,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015–31793 Filed 12–17–15; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 12–375; FCC 15–136]

Rates for Interstate Inmate Calling Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: In this document, the Commission seeks comment on ways to promote competition for Inmate Calling Services (ICS), video visitation, rates for international calls, and considers an array of solutions to further address areas of concern in the (ICS) industry.

DATES: Comments due January 19, 2016. Reply comments due February 1, 2016.

ADDRESSES: You may submit comments, identified by docket number 12–375 and/or rulemaking number 15–136, by any of the following methods:

- *Federal Communications Commission's Web site: http://apps.fcc.gov/ecfs/*. Follow the instructions for submitting comments.
- *Mail:* Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lynne Engledow, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1540 or *Lynne.Engledow@fcc.gov*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Further Notice of Proposed Rulemaking, WC Docket: 12–375, released November 5, 2015. The full text of this document may be downloaded at the following Internet Address: *http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db1105/FCC-15-136A1.pdf.*

The complete text may be purchased from Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. To request alternative formats for persons with disabilities (*e.g.* accessible format documents, sign language, interpreters, CARTS, etc.) send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 or (202) 418–0432 (TTY).

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (May 1, 1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

I. Discussion

A. Promoting Competition

1. While we adopted regulations in the November 5, 2015 Report and Order to correct failures in the ICS market, the Commission generally prefers to rely on competition over regulation. We seek additional comment on whether there are ways to promote competition within the ICS market to enable the Commission to sunset or eliminate our regulations adopted herein in the future. We also seek comment on the extent to which the reforms adopted today facilitate a properly functioning market.

2. In the *2012 NPRM,* (78 FR 4369) the Commission noted that the First Wright Petition asked the Commission to ''mandate the opening of the ICS market to competition.'' In the First Wright Petition, the Petitioners further requested that the Commission address high ICS rates by prohibiting exclusive ICS contracts and collect-call-only restrictions at privately administered prisons, and requiring such facilities to permit multiple long-distance carriers to interconnect with prison telephone systems. The Commission sought comment on these proposals but noted that ICS contracts ''are typically exclusive.'' In the *2013 Order (*78 FR 68005), the Commission observed that while it had previously held that competition existed among ICS providers to provide service to correctional facilities, facilities opposed the allowance of multiple providers due to security concerns. The Commission sought comment on whether security issues were still a legitimate reason for limiting competition within correctional facilities, and whether any technological advances had changed the justification for such exclusive use. The Commission asked similar questions in the *Second FNPRM,* and requested comment regarding any costs that may be incurred by the introduction of multiple providers within a single facility, any additional barriers to competition within a facility, and how to allow

greater competition without banning exclusive ICS contracts.

3. In response, commenters raised concern about requiring facilities to utilize multiple providers at the same location. Many commenters assert that security could be compromised if more than one ICS provider operated at a single facility. For instance, GTL notes that ''investigators would have to conduct duplicative search procedures'' which could compromise ''law enforcement's ability to monitor and track inmate calling for victim protection, investigative resources, and other public safety purposes.'' Securus warns that officers would need to be trained in every system and that having to check multiple systems could lead to a delay in officers' ability to react. Commenters also note potential increased administrative burdens and complexities for correctional facilities in order to install and maintain separate telephone systems. Securus asserts such complexities could include the need to create complex bids to allow for multiple providers, negotiate and oversee multiple contracts, review and process vendor payments and address vendor disputes. Commenters assert that these increased burdens to correctional facilities would likely lead to higher inmate ICS costs. Some commenters say that requiring multiple providers per facility could lead small facilities to eliminate ICS altogether. GTL states that, ''[i]f provision of ICS at facilities with multiple providers is not financially feasible for each provider, then facilities will not have multiple providers, regardless of what rules the Commission promulgates.'' Some commenters suggest that banning exclusive contracts would lead to lower capital investment resulting in lower and less predictable call quality. But HRDC suggests that ''[o]nly when consumers are afforded the choice to select telecommunications providers that offer the best service at the lowest price will a competitive and free market prevail in the ICS industry.''

4. We seek additional comment on this issue because the record also indicates there may be multiple providers in some facilities. How common is this practice? Does it indicate that not all facilities enter into exclusive ICS contracts? If the Commission finds it necessary to ban exclusive ICS contracts to encourage greater competition in providing ICS in correctional institutions, we seek comment on our legal authority to do so. Would such a ban serve the express purposes of section 276(b)(1), namely to promote competition and the widespread deployment of payphone services? How should existing, exclusive ICS contracts be treated if the Commission decided to ban exclusive contracts? Should they be abrogated, grandfathered, subject to a transition period or some other treatment? We seek information on the extent to which multiple providers currently serve different regions of the country. Specifically, are there even multiple ICS providers available to serve each correctional institution? Are there correctional facilities that can only be served by one ICS provider?

5. Are there ways to mitigate concerns raised in the record that multiple providers could increase burdens and make it ''more difficult . . . to maintain security''? How could allowing competition inside correctional institutions decrease end-user rates? Would facilities, as suggested in the record, eliminate ICS if the Commission banned exclusive contracts? If so, would it be necessary for the Commission to take action to prevent this practice? We seek comment on our legal authority to do so. Is it feasible for multiple providers to serve the same facility without having to build out their own separate infrastructure, for example by offering some form of secure, dial-around service? If so, could the Commission require ICS providers to offer such a service? Is it possible for multiple providers to co-exist at a single facility without compromising important security features and increasing infrastructure and personnel costs? Would technological advances address such concerns? Would requiring multiple providers in institutions, by prohibiting providers from bidding on exclusive contracts, lead to lower capital investment and ultimately affect call quality, as suggested by both GTL and Pay Tel? Finally, should the Commission, as suggested, first adopt rate and ancillary service charge reform and then determine if additional steps are necessary and perhaps revisit the idea of intra-facility competition then?

B. Video Calling and Other Advanced Inmate Communications Services

6. Our core goals for inmates and their families, friends, clergy and lawyers remain the same regardless of the technologies used—ensuring competition and continued widespread deployment of ICS and the societal benefits that they bring. Since the Commission adopted the *2013 Order,* we have seen an increase in the use of video calling, including video visitation. Given the lack of competitive pressures and the market failure the Commission has identified in the ICS market, we are concerned that rates for video calling and video visitation services that do not meet the definition of ICS could be used as a way to allow ICS providers to recover decreased rates as a result of the reforms adopted herein. We seek further comment on these newer technologies, to gain a better understanding of their use, the costs to providers and rates to consumers, and to identify any trend of moving away from more traditional ICS technologies. We seek comment on whether the incentives that allowed ICS rates to exceed just, reasonable, and fair levels might also occur for video calls and the action needed to address such issues.

7. *Background.* In the *Second FNPRM,* the Commission sought comment on ''the impact of technological advancements on the ICS industry.'' The Commission also invited comment on its legal authority to regulate the rates for services provided over newer technologies. The Commission received insight from commenters, but additional information was necessary to gain a fuller understanding of video visitation and other advanced services. Accordingly, the Commission asked supplemental questions about these services in the *Second FNPRM.* For example, the Commission specifically sought ''a greater factual understanding of the availability of these and other services,'' among other issues. The record received in response to the *Second FNPRM* provided us with further detail about the issues surrounding these services, but we again seek additional information on some questions addressed in both the *FNPRM* and *Second FNPRM,* as well as other areas that we have determined warrant further consideration. We specifically seek comment on video calls, including, but not limited to, video visitation, as the record indicates that such technology is growing in use in correctional institutions. We also ask questions about other advanced services described in the record.

8. *Discussion.* Video calling has become another way for inmates to make contact with the outside world in addition to in-person visits and ICS via telephones hanging on the wall. One commenter suggested that video visitation systems, ''which allow both video and non-video calls at unregulated rates, email, text messaging, face-to-face visits, mail and hearing-impaired systems,'' actually compete with ICS providers. We seek comment on how pervasive video visitation services are in prisons and jails. How many facilities allow such services? Is there a difference in availability between prisons and jails? How many providers offer these services? Are there

providers of video visitation that are not also providers of traditional ICS, or do the same companies offer both services? Do commenters believe certain forms of video visitation are in fact distinct from ICS? If so, what feature(s) make them distinct? For instance, might intra-institution video visitation facilities that require the friend or family member to come to the institution in order to have a video visit fall inherently outside the definition of ICS as compared to video visitation between the inmate in the institution and a friend or family member in a remote location? Do certain forms of video visitation use devices other than ''inmate telephones'' as the term is defined in our rules? We also ask commenters to provide data on the minutes of use for video calls and whether and how these minutes of use have grown over the last few years. How common are video visitation only companies, as compared to traditional ICS providers?

9. We are particularly interested in the rates that providers of video calls charge for this service compared to traditional ICS. How are these rates established? For example, the Illinois Campaign states that one provider ''typically charges a dollar a minute for a video visit.'' PPI suggests that the rate may fluctuate between as low as $0.33 per minute for certain providers up to $1.50 per minute for others. We seek detailed information about the rates video visitation providers charge for these services. What is a typical rate charged for video visitation? Does the rate differ between prisons and jails? How much, if at all, do the rates for video visitation fluctuate based on the type or size of the facility? If there is a difference between charges for facility type or size, what are the reasons for the differences? Are the rates for these services different from the rates for traditional ICS? If so, what is the justification for the difference? To the extent that video visitation providers are charging rates that exceed our interim caps, have those providers been able to explain why their services are not a form of ICS that is not subject to those caps? If there are strictly video visitation providers who do not provide other forms of ICS, do their rates differ from those set by traditional ICS providers? Does the end-user rate fluctuate by call volume or technology used?

10. What limits or protections would need to be implemented to provide relief from or prevent excessive rates for video visitation services, to the extent that they are not already being treated as forms of ICS? Are the ancillary service charges for video visitation comparable to those of traditional ICS? PPI explains that certain ICS providers that also provide video visitation charge different amounts for credit card transaction fees depending on the technology used by the inmate. Is this typical for ancillary fees and charges in general? Do video visitation providers bundle this service with traditional ICS or other services, and does that affect the rates users pay for video visitation? Do providers pay site commissions on video calls? If so, we ask commenters to file information on the magnitude of these payments.

11. News articles and commenters indicate that some ICS providers, as a condition for offering video calling, have eliminated in-person visitation entirely. We seek comment on how common conditions, such as eliminating in-person visits, are to offering video visitation services. What cost savings do institutions experience, if any, by moving away from in-person visits? What effects do conditions such as the elimination of in-person visitation have on inmates and their decisions to use video visitation or traditional ICS? Are inmates and their families given a choice? Do they have input into the decision to eliminate in-person visits? Does the practice of eliminating or reducing in-person visitation differ between jails and prisons? The record indicates that some video visitation contracts may also include a quota system, mandating a minimum number of usages of the technology per month. What are the consequences if such quotas are not met? How frequently are such conditions included in video visitation contracts? Are there other requirements like this that video visitation providers include in their contracts? One commenter, for example, hypothesized that ''if commissions on phone services are restricted, providers could include with the phone services a video visitation system and, as an incentive to select them, offer to charge for on-site visits while offering a large commission on the consumer paid visitation services to compensate for commissions restricted on the inmate phone calling.'' Is this a practice that occurs, or is likely to occur in some facilities offering video visitation?

12. We also seek comment on the benefits of video visitation as compared to traditional ICS. In facilities that offer both video visitation and traditional ICS, what percentage of inmates and their families utilize video visitation? For the inmates and families that do use video visitation, how frequent is their use? What is the comparative percentage between video visitation usage and traditional ICS usage? Are inmates and their families more apt to use video visitation in jails or prisons, or is there no notable difference based on the type or size of facility? We seek comment on the impact video calling has on inmate connectivity with friends and family. For example, is there evidence that video calling has reduced or increased the frequency of connectivity with friends and family because they may be charged by the minute, while friends and family do not have to pay for an in-person visit?

13. We seek general comment on the costs to providers of video visitation. Are there additional costs to ICS providers in developing, provisioning, or offering video visitation services? Are there costs to the correctional facilities for provisioning video visitation services? Do ancillary service charges and site commissions affect video visitation rates? If so, how?

14. We have made clear that our authority to regulate ICS is technology neutral. We also note that certain commenters have specifically agreed that we have authority to regulate video visitation. For example, PPI suggests that we should ''regulate the video visitation industry so that the industry does not shift voice calls to video visits.'' To the extent that video visitation is not already a form of ICS that is subject to our ICS rules, is this a suggestion we should pursue? Are there any barriers to the Commission specifically regulating video visitation service that do not constitute inmate telephone service under section 276?

15. HRDC and PPI have suggested that the same perverse incentives that have harmed the traditional ICS market also harm the video visitation market. We seek additional comment on whether there is a similar market failure for video visitation and other advanced services as the market failure described above for traditional ICS. Keeping in mind the Commission's stated goals of increased communication at just, reasonable, and fair rates, what steps can be taken to prevent or alleviate problems in video visitation that have prompted our action with regard to traditional ICS? Would adopting rate caps be effective to ensure just, reasonable, and fair rates for video visitation that does not meet the definition of ICS? To the extent the record indicates that a similar failure is occurring in the market for video calling as we witnessed for traditional ICS, we seek comment on adopting rate caps and reforms to ancillary service charges to ensure that video calls and video visitation do not create loopholes that providers may exploit and undermine the reforms adopted herein.

16. Some commenters are concerned that bundling regulated and unregulated products together harms the market for ICS. Would prohibiting IC providers' bundling of regulated and unregulated products together in contractual offerings alleviate some of the problems with current rates charged for advanced services? What other kinds of advanced services are available to inmates? Are they available commonly in most facilities, or only in certain ones? What is the demand for these services and what rates and fees are charged? What additional functionalities do they offer? Do they provide any greater benefits to inmates, their families, or others, than traditional services? What are ICS providers' rates for other services such as email, voicemail or text messaging? The record indicates that some ICS providers offer tablet computers and kiosks that allow inmates to access games, music, educational tools, law library tools and commissary ordering. What is the compensation mechanism for access to these offerings? What are ICS providers' rates for such services, including both service-specific rates and ''all-you-can-eat'' plans?

17. We also seek comment on the implications of offering video calls, including video visitation, for inmates who are deaf or hard of hearing. Increased deployment of video call systems has the potential to provide inmates who are able to communicate using American Sign Language (ASL) with the ability to access and use VRS, as well as providing direct communications with other ASL users who have video communications access. We note, however, that VRS and videophone users require a smooth, uninterrupted transmission of signal to communicate effectively in ASL. What range of bandwidths and broadband speeds are currently provided or planned for video call systems? What bandwidth and broadband speed are the minimum necessary for effective video communications between ASL users? In addition, what types of video technology are currently used in video call systems? To what extent are video call systems interoperable with the video communications systems used by VRS providers? Should such interoperability be required? If video call systems are used to provide accessible video communications services to deaf inmates, what steps need to be taken to ensure that any charges for such service are fair, just, and reasonable, given that for deaf inmates, such services are functionally equivalent to voice communication? Finally, we seek comment on how prevalent VRS is in correctional institutions.

C. Recurring Data Collection

18. As discussed above, we adopt a second, one-time Mandatory Data Collection to occur two years from the effective date of this Order. In this data collection, we will require all ICS providers to submit ICS cost, calling, company and contract information as well as facility, revenue, ancillary fee and advanced service information. We found the data received in response to the 2013 Mandatory Data Collection to be beneficial, and anticipate that the forthcoming additional data will also be helpful to ensure that ICS rates and practices remain just, reasonable, and fair, in keeping with our statutory mandate.

19. Throughout this proceeding, several commenters suggest that the Commission impose additional periodic reviews to ''ensure that the reforms create and maintain the proper incentives to drive ICS rates to competitive levels.'' We have found in the Order that for the time being, only a one-time additional collection is warranted. We seek comment, however, on extending in the future the Mandatory Data Collection adopted in this Order into a recurring data submission. Should providers be required to file the cost data described above in the Mandatory Data Collection annually? Why or why not? Do commenters agree that an ongoing annual data collection would provide the Commission with more fulsome data with which to help ''drive end user rates to competitive levels?'' Since ICS contracts typically run at least three to five years, with one-year extension options, is there benefit in collecting more than several years' worth of cost data in order to obtain a more accurate picture about ICS costs? Some commenters have asserted that upfront investment costs in certain ICS facilities are very high. Would collecting ICS cost data over more than one or two years lead to a more accurate economic picture for such investments? Would an ongoing ICS cost data collection provide the Commission a clearer picture of the industry than a one-time data collection? Would the benefit of such data submissions to the Commission, and its continued monitoring and regulation of the ICS industry, outweigh any potential burden on ICS providers?

D. Contract Filing Requirement

20. In the *2013 Order* the Commission reminded providers of their obligations to comply with existing rules, including rules requiring that ICS providers that are non-dominant interexchange carriers make their current rates, terms, and conditions available to the public via their company Web sites. In 2014, the Commission sought comment on ''how to ensure that rates and fees are more transparent to consumers'' and specifically on the requirement that ICS providers notify their customers regarding the ICS options available to them and the cost of those options.

21. Several commenters have expressed concern over a lack of transparency regarding ICS rates and fees. HRDC asserts ''almost a total lack of transparency on the part of both ICS providers and the government agencies from which they secure their monopoly contracts.'' HRDC further contends that ''state agencies often create obstacles to inhibit the public records process that require [sic] consumers and other organizations to unnecessarily expend time and money to obtain records designated by law to be ''public'' records.'' HRDC suggests that the Commission require ''all ICS providers to post their contracts with detention facilities on their Web sites where they are publicly available.'' Mr. Baker, of the Alabama PSC, asserts that ''lack of transparency in the ICS industry is problematic'' and recommends several solutions, including requiring providers to submit to the Commission and to state commissions ''upon request or routinely if requested, a copy of the contract from each facility serviced as well as the provider's response to any facility invitation to bid or request for proposal.''

22. Securus disagrees with these suggestions and asserts that what HRDC calls ''public documents often contain information that is protected from disclosure under the very statutes, like the Freedom of Information Act, 5 U.S.C. 552, that HRDC invokes'' as a reason for mandating their disclosure. Securus asserts that such protected information includes ''non-public financial data, proprietary information about patented and patentable technology, and the operation of crucial security features.'' Securus contends that requiring the production of ICS contracts ''could contravene federal and state disclosure statutes.'' Securus further asserts that, even if it were able to enact the ''appropriate, lawful redaction'' needed to protect sensitive and confidential data, the production of such contracts would be ''far too broad and too burdensome.'' Finally, Securus asserts that such contract production will be unnecessary if certain reform proposals are adopted, such the Joint Provider Proposal provision requiring all ICS providers to annually certify full

compliance with all federal and Commission rules and regulations.

23. Section 211 of the Act grants the Commission authority to require common carriers to ''file with the Commission copies of contracts and agreements relating to communications traffic.'' Section 43.51 of the Commission's rules specifies that any dominant communications common carrier ''must file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party and amendments thereto'' that relate to ''[t]he exchange of services'' and ''matters concerning rates.'' The Commission has also clarified that ''only non-dominant carriers treated with forbearance are not required to file contracts,'' whereas non-dominant carriers who are not treated with forbearance are still subject to filing requirements because ''material filed by [non-dominant] carriers subject to streamlined regulations may be useful in the performance of monitoring.''

24. We share commenters' concern that ICS contracts are not sufficiently transparent. We also share the concern of commenters who assert that members of the public must ''unnecessarily expend time and money to obtain records'' of ICS contracts. We also recognize the evidence suggesting that the information regarding ICS contracts and rates that is publically available may not be as reliable as the actual contract.

25. Should the Commission require ICS providers to file all contracts, including updates, under its section 211(b) authority? Does the annual reporting requirement meet this transparency objective? Are there any reasons such a requirement would not apply to all ICS providers or result in the filing of all ICS contracts? We seek comment on the costs and benefits related to contract filing. Would such a requirement be overly burdensome to ICS providers? Do the benefits outweigh the costs? Would such requirement conflict with any other state or federal laws or requirements, such as the Freedom of Information Act? How should the contracts be filed with the Commission? To allow greater public accessibility to ICS contracts, we seek comment on requiring ICS providers to file their contracts with the Commission, in a newly assigned docket, via the Commission's Electronic Comment Filing System (ECFS) within 30 days of entering into a new contract. What would trigger the need to file an updated contract and how quickly after execution should new or updated contracts be filed? In what format should contracts be filed? What are the best ways to handle issues related to confidentiality? Would the *Protective Order* in effect in this docket adequately cover any confidentiality issues that might arise surrounding contracts that might be filed with us? We seek comment on these and any other potential issues that may arise related to the potential filing of ICS contracts with the Commission. For example, should the Commission adopt additional tools to help it prevent contract-related gaming such as that described above? What do commenters suggest as additional means to combat such gaming?

E. International Calling Rates

26. In the *2013 FNPRM,* the Commission sought comment on the prevalence of international ICS calling and on the need to reform international ICS rates. The Commission also sought comment on its legal authority to regulate international ICS and on what rates should apply to international ICS, should the Commission assert jurisdiction. In the *Second FNPRM,* the Commission sought ''updated comment on international ICS and the need for Commission reform focused on such services.''

27. In response, several commenters urge the Commission to regulate international ICS rates. The record demonstrates that many inmates either lack access to international ICS or that such services are only available at very high rates. Numerous international ICS calling rates far exceed the rates permitted for interstate ICS calls, with some international rates from county correctional institutions set as high as $17.85 to $45 for a 15-minute call. Friends and family members who live outside the United States and who wish to stay in contact with those who are incarcerated pay the price of such high rates. Commenters also suggest that immigrant detainees are particularly vulnerable to high phone rates, due to several factors, including their need to stay in touch with family abroad and the centrality of phone access to immigration proceedings. We seek comment on whether and how we should act to improve inmates' and detainees' access to ICS for international calls, as well as what rates should apply to such calls. We seek comment on applying the adopted rate caps to all international calls.

28. *Legal Authority to Reform International Rates.* Longstanding precedent establishes the Commission's authority to ensure that payphone service providers—including providers of ICS—''are fairly compensated for international as well as interstate and intrastate calls.'' In addition, section 201 provides the Commission with the authority to ensure that carriers' rates and practices for interstate and ''foreign'' communications are just and reasonable, and grants the Commission authority to ''prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this chapter.'' Based on these provisions, we tentatively conclude that the Commission has authority to reform international ICS rates as necessary to ensure that they are fair, just, and reasonable. We seek comment on this tentative conclusion.

29. *Rates for International Calling.* Although several parties note that rates for international ICS calls are very high in some facilities, the record contains relatively little information about the specific costs, if any, ICS providers incur in providing international calling or what would constitute just, reasonable, and fair compensation for international ICS calls. The Mandatory Data Collection required providers to submit their costs related to the provision of ICS, including the provision of international calling. Responses to the Mandatory Data Collection, however, did not separate out costs for international calls from costs for the provision of interstate and intrastate calls. Thus, we lack information about the costs providers incur in providing international ICS.

30. We seek comment on extending our rate caps for interstate and intrastate calls to international calls. Would establishing international rates at levels consistent with our rate caps ensure that ICS users do not pay rates that are unfair or that are unjustly or unreasonably excessive? Would capping rates for international calls at the same levels as we have established for interstate and intrastate calls allow providers to receive fair compensation? If not, why not? Would allowing a higher rate for international calls lead to over-recovery by providers, as their costs for international calls are already factored into the rate caps we set to govern interstate and intrastate ICS rates? Would the benefit of breaking out international calls be sufficient to justify the added complexity of adding a separate regime for international calls in addition to the rate caps we adopt in the accompanying Order? What percentage of ICS providers' minutes of use do international calling minutes constitute? For example, would a relatively low volume of international calls weigh against establishing a separate rate

regime for such calls, particularly given that the costs of international calls are already included in the costs we used to set the rate caps for interstate and intrastate ICS?

31. There is evidence that many of the approximately 400,000 immigrants detained in this country each year are held in local jails and prisons that have contracted with Immigration Customs and Enforcement (ICE). ICS rates and policies were discussed at the Commission's 2014 ICS Workshop. The record indicates that ICE ''detainees are charged . . . a uniform rate of 15 cents per minute for international calls to landlines and 35 cents per minute for international calls to mobile phones,'' with ''no additional connection fees or ancillary charges.'' We seek comment on these rates. Should the Commission establish separate rate caps for international calls that terminate to landline devices and for those that terminate to mobile devices? If so, what rates should apply to each type of call? How challenging would it be for ICS providers to bill different rates for different types of international calls? Is it administratively feasible for ICS providers to distinguish between calls to landline phones versus calls to mobile devices? Should rates vary depending on which foreign country the inmate is calling? Should there be a separate rate cap for international calls made by ICE detainees? Why or why not?

32. The ICE ICS contract provides for free telephone calling services to select numbers through a ''centralized pro bono platform which can be accessed at any detention facility.'' According to the record, since this ICE contract was awarded, ''the number of calls per detainee and minutes per detainee has increased substantially.'' The record also indicates that detainees may make calls to 200 different countries for the same per-minute rates. We seek additional comment on the rates available under the ICE contract. Are these rates a reasonable approximation of what the Commission should adopt for international rate caps? Is ICE able to attain economies of scale that other facilities are not? Would it be more appropriate for the Commission to: (1) Adopt the ICE rates for all international calls, (2) subject international ICS calls to the same rate caps we adopt for interstate and intrastate calls, or (3) adopt a different rate regime that is not based on either the ICE rates or the existing rate caps? Are any of these options supported by cost data or other data in the record? If not, is such data available? If the Commission adopts rate caps that are higher than those currently offered by ICE facilities, should those facilities be allowed to raise their rates? We seek comment on ICE's decision to apply different rates for international landline ($0.15/minute) and international mobile ($0.35/minute) calls. Are these rates a reasonable approximation of providers' costs? Is this cost differential a similar one to that which other providers have experienced?

33. We also seek further comment on other issues related to international calling from correctional facilities. The record indicates that although it is feasible for inmates to make international calls, international ICS calling is not always available. Commenters assert that the lack of availability of international calling is particularly burdensome to immigrant inmates and their families. We note that many immigration detainees are housed in county jails, rather than in ICE detention facilities. In addition, some inmates in jails and prisons have family and loved ones in countries outside the United States. Do most facilities allow international calling? If not, why not? Are any additional restrictions applied to such calls, such as time-of-day restrictions or prior-permission requirements? Should the Commission require the availability of international calls? If so, what legal authority would we rely on to adopt such a requirement? If we were to adopt such a requirement, what rates should apply to international calls and how should the Commission set such rates? Would subjecting international calls to the same rate caps that apply to interstate and intrastate ICS calls lead to providers or facilities discontinuing or restricting international ICS calls?

F. Third-Party Financial Transaction Fees

34. In the *Second FNPRM,* the Commission sought comment on third-party financial transactions, and asked how it should ensure that money transfer service fees paid by ICS consumers are just and reasonable and fair. In the ICS context, third-party financial transaction fees consist of two elements: A fee from a third party, such as Western Union or Money Gram to transfer funds from a consumer to an inmate's ICS account, and an additional charge by an ICS provider for processing the funds transferred via the third party for the purpose of paying for ICS calls. After carefully reviewing the record, we determine, in the Order above, that the first aspect of third-party financial transaction, *e.g.,* the money transfer or credit card payment, does not constitute an ''ancillary service,'' within the meaning of section 276. However, we assert jurisdiction over any additional fee or markup that the ICS provider might impose on the end user, and require ICS providers to pass third-party transaction fees to end users with no additional markup.

35. Several commenters express concern about an additional issue related to these transactions: Potential revenue-sharing arrangements between ICS providers and financial companies. ICSolutions, for example, states that, despite the Commission's cap on third-party financial transaction fees, providers and vendors have an incentive to enter into fee-sharing arrangements with financial services companies, ''thereby complying with the pass-through cost component, but still unnecessarily increasing consumers' cost.'' ICSolutions urges the Commission to address this practice by imposing limits on the fees third-party financial companies can charge end users in an effort to prevent ''secondary fee-sharing arrangements'' between these companies and ICS providers that can ''unnecessarily increase the cost of financial transactions to consumers.'' Similarly, CenturyLink asserts that ICS providers can ''divert transactions to certain third party processors, claiming high fees charged by the third party.'' CenturyLink states that, by using a third-party payment processor, an ICS provider can inflate ancillary fees through a revenue-sharing agreement that adds a ''direct or indirect markup'' to ancillary services. CenturyLink argues that providers should be ''permitted to use such services but not permitted to enter into arrangements that add a direct markup or indirect markup though a revenue sharing arrangement.'' Securus, however, defends these calling arrangements as ''innovative, valuable'' additions to ICS that benefit consumer by giving them more options.

36. We seek additional comment on the revenue-sharing issues discussed above. First, we seek comment on issues related to our jurisdiction over these transactions. Does the Commission have jurisdiction over third-party financial processor vendors, or over contracts between ICS providers and third-party vendors? Does our authority over ICS providers allow us to regulate providers' ability to enter into revenue-sharing arrangements with third-party vendors? Could these service charges constitute unjust and unreasonable practices, in violation of section 201(b), or a practice that would lead to unfair rates in violation of section 276, because, for example, the manner in which such charges are imposed artificially inflates the amounts that consumers pay to

access ICS? How can we ensure that these revenue sharing arrangements are not used to circumvent our rules prohibiting markups on third-party fees? How common are the revenue-sharing arrangements described by CenturyLink and others? Do providers have any control over the fees established by third parties, such as Western Union or credit card companies, for payment processing functions? Are these revenue-sharing arrangements used to add direct or indirect markups to ancillary services? Should the Commission distinguish between revenue-sharing arrangements between providers and affiliated companies versus arrangements between providers and unaffiliated third parties? If so, what would be the legal basis for such a distinction? Does the Commission have greater authority over arrangements between ICS providers and their affiliates than it does over agreements between providers and unaffiliated entities? Assuming the Commission were to regulate arrangements between providers and affiliated companies that offer financial services, how would such regulations work? Specifically, how could the Commission prevent an affiliate from sharing revenues (or profits) with an ICS provider? Are there other factual or legal considerations the Commission should consider in determining whether and how to address arrangements between ICS providers and financial services companies?

G. Cost/Benefit Analysis of Proposals

37. Acknowledging the potential difficulty of quantifying costs and benefits, we seek to determine whether each of the proposals above will provide public benefits that outweigh their costs. We also seek to maximize the net benefits to the public from any proposals we adopt. For example, commenters have argued that inmate recidivism decreases with regular family contact. This not only benefits the public broadly by reducing crimes, lessening the need for additional correctional facilities and cutting overall costs to society, but also likely has a positive effect on the welfare of inmates' children. We seek specific comment on the costs and benefits of the proposals above and any additional proposals received in response to this Third Further Notice. We also seek any information or analysis that would help us to quantify these costs or benefits. We request that interested parties discuss whether, how, and by how much they would be impacted in terms of costs and benefits of the proposals included herein. Additionally, we ask that parties consider whether the above proposals have multiplier effects beyond their immediate impact that could affect their interest or, more broadly, the public interest. Further, we seek comment on any considerations regarding the manner in which the proposals could be implemented that would increase the number of people who benefit from them, or otherwise increase their net public benefit. We recognize that the costs and benefits may vary based on such factors as the correctional facility served and ICS provider. We have received minimal cost benefit analysis in this proceeding. Therefore, we request again that parties file specific analyses and facts to support any claims of significant costs or benefits associated with the proposals herein.

II. Procedural Matters

A. Filing Instructions

38. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998). Comments and reply comments on this *Third FNPRM* must be filed in WC Docket No. 12–375.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

B. Ex Parte Requirements

39. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. Memoranda must contain a summary of the substance of the *ex parte* presentation ad not merely a list of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. If the oral presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the

electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

C. Paperwork Reduction Act Analysis

40. This Further Notice contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

D. Initial Regulatory Flexibility Analysis

41. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) for this document, of the possible significant economic impact on small entities of the policies and rules addressed in this document. The IRFA is available in Appendix F of the full-text copy of the Commission's Second Report and Order and Third Further Notice of Proposed Rulemaking, released November 5, 2015. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided on or before the dates indicated on the first page of this document. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Further Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

III. Ordering Clauses

42. *Accordingly, it is ordered* that, pursuant to sections 1, 2, 4(i)–(j), 201(b), 215, 218, 220, 276, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 201(b), 215, 218, 220, 276, 303(r), and 403 Third Further Notice of Proposed Rulemaking *is adopted.*

43. *It is further ordered,* that pursuant to sections 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1) and 1.103(a), that this Third Further Notice of Proposed Rulemaking *shall be effective* 30 days after publication of a summary thereof in the **Federal Register** except as noted otherwise above.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

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