

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	WC Docket No. 12-375
	)	
Rates for Interstate Inmate Calling	)	OMB 3060-1222
Services	)	
	)	FR ID 44613

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**PAPERWORK REDUCTION ACT COMMENTS  
OF GLOBAL TEL\*LINK CORPORATION**

Global Tel\*Link Corporation (“GTL”),<sup>1</sup> by its attorneys, respectfully submits these Paperwork Reduction Act (“PRA”)<sup>2</sup> comments in response to the Federal Communications Commission (“Commission” or “FCC”) notice<sup>3</sup> seeking comment on the new consumer disclosure requirements in the *2021 ICS Order*.<sup>4</sup>

**BACKGROUND**

Providers of inmate calling services (“ICS”) currently are required to “clearly, accurately, and conspicuously disclose their interstate, intrastate, and international rates and Ancillary Service Charges to consumers on their Web sites or in another reasonable manner readily available to consumers.”<sup>5</sup> In the *2021 ICS Order*, the Commission proposes new disclosure obligations that would require ICS providers to create a “separate line item on Consumer bills” for information

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<sup>1</sup> These comments are filed by GTL on behalf of itself and its wholly owned subsidiaries that also provide inmate calling services: DSI-ITI, Inc., Public Communications Services, Inc., Telmate, LLC, and Value-Added Communications, Inc.

<sup>2</sup> 44 U.S.C. §§ 3501-3520.

<sup>3</sup> 86 Fed. Reg. 47496 (Aug. 25, 2021) (“FR Notice”).

<sup>4</sup> WC Docket No. 12-375, *Rates for Interstate Inmate Calling Services*, Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking, FCC 21-60 (rel. May 24, 2021) (“*2021 ICS Order*”).

<sup>5</sup> 47 C.F.R. § 64.6110.

regarding site commission payments and amounts paid to underlying international service providers.<sup>6</sup>

The PRA requires the Commission to seek comment and receive Office of Management and Budget (“OMB”) approval on these new disclosure requirements.<sup>7</sup> In addition to comments on the new disclosure requirements, the Commission seeks comment on “[w]hether 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; the accuracy of the Commission’s burden estimate; ways to enhance the quality, utility, and clarity of the information collected; 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 ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.”<sup>8</sup>

The purpose of the PRA is to minimize federal paperwork burdens on businesses and to ensure the greatest public benefit from information collected by the federal government, among other things.<sup>9</sup> The statute defines the term “burden” broadly, including “time, effort, and financial resources expended by persons to generate, maintain, or provide information.”<sup>10</sup> A central purpose

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<sup>6</sup> 2021 ICS Order at p.166 (setting forth text of revised Rule 64.6110).

<sup>7</sup> The Commission also is seeking comment on the ICS Annual Report, FCC Form 2301(a) and FCC Form 2301(b), for purposes of the PRA. *See* FR Notice at 47496. Based on discussions with Commission staff, GTL understands the Commission is not seeking approval of any changes to the ICS Annual Report at this time, and the ICS Annual Report is included in the FR Notice only to align the OMB approval dates for the new disclosure requirements and the ICS Annual Report. To the extent the Commission submits a revised ICS Annual Report to OMB for approval, GTL reserves the right to comment on those proposed changes at a later date.

<sup>8</sup> FR Notice at 47496.

<sup>9</sup> 44 U.S.C. § 3501(1).

<sup>10</sup> 44 U.S.C. § 3502(2).

of the PRA is to minimize the “paperwork burden” for reporting entities,<sup>11</sup> and the Commission has an obligation to ensure this objective is achieved.<sup>12</sup>

### **COMMENTS**

The PRA requires the Commission to make certain showings to support its imposition of the new disclosure requirements. The Commission must demonstrate “it has taken every reasonable step to ensure that the proposed collection of information” is the “least burdensome necessary,” is “not duplicative of information otherwise accessible to the agency,” and is useful.<sup>13</sup> The record does not support that the new disclosure requirements meet these standards.

First, the Commission’s existing rules imposing ICS rate and ancillary service charge caps<sup>14</sup> and ICS consumer disclosures,<sup>15</sup> coupled with the Commission’s existing Truth-in-Billing rules,<sup>16</sup> Internet-posting requirements,<sup>17</sup> investigative authority,<sup>18</sup> and formal and informal complaint processes,<sup>19</sup> provide a reliable and less burdensome way to facilitate transparency in

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<sup>11</sup> See, e.g., *U.S. v. Dawes*, 951 F.2d 1189, 1191 (10th Cir. 1991) (“The Paperwork Reduction Act (PRA or the Act) was enacted by Congress in response to growing criticism from citizens regarding what they perceived to be an ever-increasing and onerous burden of federal paperwork. In adopting the PRA, Congress crafted a comprehensive scheme designed to reduce the federal paperwork burden.”) (citing *Dole v. United Steelworkers*, 494 U.S. 26 (1990)).

<sup>12</sup> See, e.g., *Black Citizens for a Fair Media v. FCC*, 719 F.2d 407, 416 (D.C. Cir. 1983) (finding the PRA “was enacted ‘to minimize the federal paperwork burden’” and that “Congress specifically applied this policy to the FCC’s domain”).

<sup>13</sup> 5 C.F.R. § 1320.5(d)(1).

<sup>14</sup> 47 C.F.R. §§ 64.6020, 64.6030.

<sup>15</sup> 47 C.F.R. § 64.6110.

<sup>16</sup> 47 C.F.R. § 64.2401.

<sup>17</sup> 47 C.F.R. §§ 42.10, 42.11.

<sup>18</sup> 47 U.S.C. § 403 (“The Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which complaint is authorized to be made, to or before the Commission by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any provisions of this Act.”).

<sup>19</sup> 47 U.S.C. § 208; 47 C.F.R. § 1.711, *et seq.*; see also, e.g., *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as Amended*, 11 FCC Rcd 20730, ¶¶ 21, 128 (1996) (subsequent history omitted) (recognizing that the Commission “may be called

ICS rates and charges.<sup>20</sup> Both incarcerated individuals and their friends and families have numerous ways to learn about ICS rates and charges, which satisfy the Commission’s “transparency objectives.”<sup>21</sup>

An incarcerated individual that uses a debit or commissary account to pay for a call is given the opportunity to learn about call rates prior to the call being connected. Under FCC Rule 64.710, each provider of inmate operator services is required to disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate, non-access code operator service call, how to obtain the total cost of the call, including any surcharge or premises-imposed fee.<sup>22</sup> GTL utilizes this practice for all call types, not just interstate calls. The interactive voice response (“IVR”) prompts are updated in real-time to reflect the current rate for the call. Further, many correctional facilities make available printed materials, posters, and brochures to incarcerated individuals that contain information on the rates, terms, and conditions for the services offered by GTL at the correctional facility. In addition, on-site GTL personnel are available in many correctional facilities to assist incarcerated individuals.

Friends and family likewise can access rates prior to the call being connected using the IVR system.<sup>23</sup> Further, GTL makes information concerning its current rates, ancillary service charges, and associated terms and conditions available on two publicly-available websites: [www.connectnetwork.com](http://www.connectnetwork.com) and [www.gettingout.com](http://www.gettingout.com) ([www.gtl.net](http://www.gtl.net) also links to the

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upon to examine the reasonableness of a non-dominant interexchange carrier’s rates, terms, and conditions for interstate, domestic, interexchange services, for example, in the context of a Section 208 complaint proceeding” and that “the exercise of [its] authority to investigate and adjudicate complaints under Section 208” was a “more effective means of remedying” service offerings that violate Section 201).

<sup>20</sup> 2021 ICS Order ¶¶ 166, 183.

<sup>21</sup> 2021 ICS Order ¶ 166.

<sup>22</sup> 47 C.F.R. § 64.710.

<sup>23</sup> Friends and family members also can contact GTL customer service representatives via phone, email, or U.S. mail to obtain information about rates, ancillary service charges, or terms and conditions.

ConnectNetwork website). Terms of Service, Privacy Policy, other consumer disclosures, and Frequently Asked Questions also are available on these publicly-available websites. Both websites allow friends and family to select a particular state and correctional facility, and see the services and payment options available at that correctional facility. Once friends or family members establish an account with GTL, they can determine online the rates and charges applicable to the selected correctional facility for the particular services the consumer chooses to use. Friends or family members can review their account transactions online as well as access GTL's Interstate/International Rates, Terms, and Conditions document on the company's websites.

Second, the new disclosure requirements do not recognize the nature of the services provided by ICS providers. Most consumers utilizing ICS do not receive “bills” in the traditional sense.<sup>24</sup> ICS is “limited to collect or debit-based calling from payphones” with prepaid calling used as an alternative to collect and debit calling.<sup>25</sup> As the Commission has recognized, most ICS providers do not have billing arrangements with the carrier serving the called party.<sup>26</sup> ICS is more akin to prepaid calling cards, which the Commission has recognized lack traditional billing relationships.<sup>27</sup>

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<sup>24</sup> There are a limited number of ICS consumers that receive regular invoices from GTL, such as bail bondsmen, attorneys, etc.

<sup>25</sup> *Rates for Interstate Inmate Calling Services*, 27 FCC Rcd 16629, ¶¶ 2, 33 (2012) (“2012 ICS NPRM”).

<sup>26</sup> See, e.g., *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd 3248, ¶ 67 (2002); see also *Rates for Interstate Inmate Calling Services*, 28 FCC Rcd 14107, ¶¶ 112-14 (2013) (subsequent history omitted) (discussing ICS providers' lack of billing arrangements with terminating providers).

<sup>27</sup> See, e.g., *Comments Invited on Application of Transcommunications Incorporated to Discontinue Domestic Telecommunications Services*, WC Docket No. 05-161, Public Notice, DA 05-999 (rel. Apr. 4, 2005) (granting discontinuance of prepaid calling card services without comment based on statements that the calling card provider could not provide customer notice because it did not know the identity and address of the consumers of its calling cards and thus it would be effectively impossible to provide written notice of the discontinuance of service to each affected cardholder); *Notice of Domestic Section 214 Authorization Granted*, Public Notice, DA 07-1082 (Mar. 8, 2007) (approving transfer of prepaid calling card assets without comment based on statements that calling card provider could not provide customer notice because it did not know the identity and address of the consumers using its calling card services).

By design, regardless of the payment arrangement used (collect, debit, or prepaid), all calls initiated by an incarcerated individual are completed using automated operator services.<sup>28</sup> There is no established billing relationship involved in the provision of payphone service or operator services,<sup>29</sup> which is precisely why Congress passed the Telephone Operator Consumer Services Improvement Act (“TOCSIA”) of 1990.<sup>30</sup> One of the main objectives of TOCSIA was “to ensure consumers have the opportunity make informed choices” prior to making operator service calls.<sup>31</sup> The Commission’s implementing rules – Rule 64.703 (non-inmate) and Rule 64.710 (inmate) – “were designed to ensure consumers receive sufficient information about the rates they will pay for operator services” prior to completion of the call.<sup>32</sup> Notably, these rules do not require ICS providers to identify separate components of the cost of the call; rather, the rules require ICS providers to provide the “total cost of the call,” meaning “both the variable (duration-based) charges for the call and the total per-call charges, exclusive of taxes,<sup>33</sup> that the carrier, or its billing agent, may collect from the consumer for the call.”<sup>34</sup> Thus, the requirement to include “a separate

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<sup>28</sup> 2012 ICS NPRM ¶ 6; see also *id.* at n.12 (“collect calls cannot be made without [operator services] OS; therefore, the power to regulate OS is the power to regulate collect calls”) (internal quotations omitted). The Commission defines “inmate operator services” as “any interstate telecommunications service initiated from an inmate telephone that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than: (i) Automatic completion with billing to the telephone from which the call originated; or (ii) Completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.” See 47 C.F.R. § 64.710(b)(3).

<sup>29</sup> As the Commission has recognized, a “store-and-forward payphone, or ‘smart’ payphone, is essentially an automated operator system contained in the payphone itself.” See *Billed Party Preference for InterLATA 0+ Calls*, 13 FCC Rcd 12576, n.7 (1998).

<sup>30</sup> 47 U.S.C. § 226.

<sup>31</sup> *Policies and Rules Concerning Operator Service Providers*, 6 FCC Rcd 2744, ¶ 4 (1991).

<sup>32</sup> *Billed Party Preference for InterLATA 0+ Calls*, 16 FCC Rcd 22314, ¶ 1 (2001).

<sup>33</sup> Site commission amounts and amounts paid to underlying international service providers are akin to taxes as they are not revenue retained by the ICS provider, and are simply passed-through to the consumer.

<sup>34</sup> 47 C.F.R. § 64.710(b)(1).

line item on Consumer bills” is inapplicable to payphone or operator services like ICS.<sup>35</sup>

Third, the requirement to include the “Facility-Related Rate Component” (*i.e.*, site commissions) “as a separate line item on Consumer bills” does not align with other requirements in the *2021 ICS Order* and may lead to consumer confusion. Proposed Rule 64.6110(b)(3) would require ICS providers to “[i]dentify the amount of the Site Commission payment, expressed as a per-minute or per-call charge, a percentage of revenue, or a flat fee.”<sup>36</sup> Presumably this rule can only apply to “Legally Mandated Facility Rate Components” because ICS providers are only permitted to pass through up to \$0.02 per minute of any “Contractually Prescribed Facility Rate Component;” however, the rule is not stated as such.<sup>37</sup> Further, Rule 64.6110(b)(3) allows the site commission amount to be expressed as a per-minute or per-call charge, a percentage of revenue, or a flat fee, but Rule 64.6030(d)(2) requires a Contractually Prescribed Facility Rate Component to be expressed as a per-minute amount (using three decimal places), and the Commission requires providers to use their “best judgment” to comply with the disclosure requirements governing Legally Mandated Facility Rate Components.<sup>38</sup>

Fourth, the Commission did not consider whether ICS providers have the ability to identify site commission payments and amounts paid to underlying international service providers as “separate line items on Consumer bills” or the burdens associated with doing so, particularly when ICS does not lend itself to the use of plain old telephone consumer billing. ICS provider billing

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<sup>35</sup> Further, the term “Consumer” is defined to mean “the party paying a Provider of Inmate Calling Services.” See 47 C.F.R. § 64.6000(e). This definition encompasses either the incarcerated individual or friends/family outside of the correctional facility depending on the type of account used to pay for the ICS call. An incarcerated individual using a debit or commissary account to pay for ICS does not receive a “bill” from an ICS provider.

<sup>36</sup> *2021 ICS Order* at p. 166 (setting forth text of revised Rule 64.6110).

<sup>37</sup> *2021 ICS Order* ¶ 134; see also *id.* at p. 165 (setting forth text of revised Rule 64.6030).

<sup>38</sup> *2021 ICS Order* ¶ 166 (recognizing “not all mandatory site commission payments may be easily expressed as a percentage of revenue or easily converted to a per-call or per-minute rate”).

systems will require significant changes and re-programming to separately state these amounts, as the Commission has acknowledged in other contexts.<sup>39</sup> The Commission specifically rejected adoption of a change in “rate structure” in the *2021 ICS Order* finding that it would “impose significant burden on providers.”<sup>40</sup> Although the Commission found the international termination “transparency requirements will not be particularly burdensome” because providers will need to calculate such charges “to set their rates,”<sup>41</sup> the Commission did not consider the burdens on providers to make technical changes to identify such charges as “separate line items on Consumer bills” or if it is even possible in the context of payphone/prepaid/operator services. Pay Tel recently stated that its “existing billing technology is not capable of implementing this level of disparate charges involving constant surveillance of multiple floating rates,” and this “sort of systems reconfiguration is a massive undertaking and one that is disproportionate to the miniscule amount of international calling at issue.”<sup>42</sup>

The significant burden on ICS providers to implement the separate line item requirements – the “time, effort, and financial resources expended”<sup>43</sup> – does not justify imposition of the requirements. Both the incarcerated and friends and family have the opportunity to learn about the total cost of the call pursuant to FCC Rule 64.710, and friends and family can access detailed information regarding ICS rates and charges on provider websites, including information regarding site commission amounts and amounts paid to underlying international service providers. As the

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<sup>39</sup> See, e.g., *Federal-State Joint Board on Universal Service*, 23 FCC Rcd 2567, ¶ 3 (2008) (recognizing “modifications in billing systems” will be needed for new line item requirements).

<sup>40</sup> *2021 ICS Order* ¶ 69.

<sup>41</sup> *2021 ICS Order* ¶ 183.

<sup>42</sup> WC Docket No. 12-375, Comments of Pay Tel Communications, Inc. in Response to Fifth Further Notice of Proposed Rulemaking, at 16-17 (filed Sept. 27, 2021).

<sup>43</sup> 44 U.S.C. § 3502(2).



Commission has recognized, Internet-posted disclosures “make rate and service information more readily available and beneficial for consumers directly, as well as for business and consumer organizations that collect and analyze rate and service information and offer their analyses to the public, particularly in view of the tremendous growth in usage of the Internet.”<sup>44</sup> Unlike the current proposal for ICS providers to identify these amounts as “separate line items on Consumer bills,” an Internet posting “requirement is not unduly burdensome, because the growth of Internet usage has increased the benefits of an on-line requirement to consumers, and the costs of maintaining an Internet website and posting the information on-line for carriers are moderate.”<sup>45</sup> Accordingly, the burden on ICS providers overwhelmingly outweighs the anticipated benefit of the Commission’s proposed disclosure requirements.<sup>46</sup>

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<sup>44</sup> *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, 14 FCC Rcd 6004, ¶ 18 (1999) (“*Internet Posting Order*”).

<sup>45</sup> *Internet Posting Order* ¶ 18.

<sup>46</sup> *See also, e.g., National Ass’n of Home Builders v. EPA*, 682 F.3d 1032, 1040 (D.C. Cir. 2012) (“when an agency decides to rely on a cost-benefit analysis as part of its rulemaking, a serious flaw undermining that analysis can render the rule unreasonable”); *City of Portland v. EPA*, 507 F.3d 706, 713 (D.C. Cir. 2007) (noting that the court will not “tolerate rules based on arbitrary and capricious cost-benefit analyses”); *Radio-Television News Directors Ass’n v. FCC*, 184 F.3d 872, 887 (D.C. Cir. 1999) (stating “the court must weigh the rules’ benefits against their burdens”); *Office of Communication of United Church of Christ v. FCC*, 707 F.2d 1413, 1440 (D.C. Cir. 1983) (“Cost-benefit analyses epitomize the types of the decisions that are most appropriately entrusted to the expertise of an agency” and the reviewing court must ensure that the “agency has at least understood the relevant factors to be considered and has provided an adequate explanation of its reasoning process.”).

## **CONCLUSION**

For the foregoing reasons, GTL recommends the Commission re-evaluate the potential burden on ICS providers to create or modify systems and processes to identify site commission amounts and amounts paid to underlying international service providers as “separate line items on Consumer bills.” The Commission’s transparency objectives already are being met under the Commission’s current rules, and web-posted site commission amounts and amounts paid to underlying international service providers could be added to those web-posted rates as a less burdensome method to achieve further transparency.

Respectfully submitted,

**GLOBAL TEL\*LINK CORPORATION**

*/s/ Chérie R. Kiser*

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