

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

In the Matter of)	
)	WC Docket No. 12-375
)	
Rates for Interstate Inmate Calling)	OMB Control Number: 3060-XXXX (Inmate
Services)	Calling Services Data Collection, One-
)	Time Data Collection, FCC Form 2300)
)	
)	OMB Control Number: 3060-XXXX (Inmate
)	Calling Services Data Collection; Annual
)	Reporting, Certification, and Consumer
)	Disclosure Requirements, FCC Form 2301)

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

Global Tel*Link Corporation (“GTL”),¹ hereby submits these Paperwork Reduction Act (“PRA”)² comments in response to the Federal Communications Commission (“Commission” or “FCC”) notice³ seeking comment on the new information collection requirements adopted by the Commission in its *2015 ICS Order* issued on November 5, 2015 in WC Docket No. 12-375.⁴ Given that the requirements adopted in the *2015 ICS Order* remain subject to further judicial review and possible modification, GTL urges the Commission to refrain from taking any further action on the new information collection requirements pending the outcome of the court proceedings.

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

² 44 U.S.C. §§ 3501-3520.

³ Federal Register Notice, Notice of Public Information Collections Being Reviewed by the Federal Communications Commission, Vol. 81, No. 147, at 50499-500 (Aug. 1, 2016) (“FR Notice”).

⁴ *Rates for Interstate Inmate Calling Services*, 30 FCC Rcd 12763 (2015) (“*2015 ICS Order*”).

BACKGROUND

The *2015 ICS Order* imposed new information collection requirements on inmate calling service (“ICS”) providers, and the PRA requires the Commission to seek comment on the new requirements before seeking Office of Management and Budget (“OMB”) approval of the requirements.⁵ 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.⁶ The statute defines the term “burden” broadly, including “time, effort, and financial resources expended by persons to generate, maintain, or provide information.”⁷ A central purpose of the PRA is to minimize the “paperwork burden” for reporting entities, and the Commission has an obligation to ensure this objective is achieved.⁸

The *2015 ICS Order* imposed several new data collection and reporting obligations on ICS providers. First, the Commission adopted a second, one-time mandatory data collection to occur two years from OMB approval of the requirement.⁹ The collection is intended to facilitate “a review of the ICS market including ICS costs, rates and ancillary service charges.”¹⁰ According to the FR Notice, the information to be submitted includes data on: (1) costs of providing – and the demand for – interstate, international, and intrastate ICS; (2) ICS calls; (3) various ICS costs; (4) company and contract information; (5) correctional facilities served; (6) ICS revenues; (7) ancillary fees; (8) mandatory taxes and fees; (9) apportionment of direct costs

⁵ *2015 ICS Order* ¶ 330; *see also supra* n.2

⁶ 44 U.S.C. §§ 3501(1).

⁷ 44 U.S.C. §§ 3502(2).

⁸ *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”).

⁹ *2015 ICS Order* ¶ 198.

¹⁰ *2015 ICS Order* ¶ 201.

for each cost category; and (10) how joint and common costs are apportioned among facilities and services.¹¹ The specifics of the one-time data collection have not been developed. The Commission directed the Wireline Competition Bureau “to develop a template for submitting the data and provide ICS providers with further instructions to implement the data collection,” but nothing has been issued by the Bureau.¹² Despite the lack of details regarding this requirement, the FCC estimates it will take each ICS provider 80 hours to comply with the mandatory data collection.¹³ GTL submits that the Commission’s estimate is substantially understated.

Second, the Commission adopted an annual reporting and certification requirement, and consumer disclosure requirements. Under the annual reporting requirement, all ICS providers must submit, on an annual basis, categorized by facility and size of facility, information regarding: (1) current interstate, international, and intrastate rates; (2) current ancillary service charge amounts and the instances of use of each; (3) monthly amounts of any site commission payments made by the ICS provider; (4) minutes-of-use, per-minute rates, and ancillary service charges for any video visitation services provided by the ICS provider; and (5) certain information concerning disability-related calls.¹⁴ Under the annual certification requirement, an officer of each ICS provider must certify that the ICS provider is in compliance with the FCC’s rules.¹⁵ The Commission directed the Wireline Competition Bureau to develop a template for the annual report, and a format for the annual certification; neither of which have been released by the Bureau.¹⁶ Finally, the Commission required ICS providers to provide certain, detailed

¹¹ FR Notice at 50499.

¹² 2015 ICS Order ¶ 201.

¹³ FR Notice at 50499.

¹⁴ 2015 ICS Order ¶ 267.

¹⁵ 2015 ICS Order ¶ 273.

¹⁶ 2015 ICS Order ¶ 268, n.944.

disclosures to ICS consumers regarding ICS services, charges, rates, and fees.¹⁷ The FCC indicated that these reporting, certification, and disclosure requirements will ensure compliance with the *2015 ICS Order* and will be used by the Commission to monitor the effectiveness of the reforms adopted therein.¹⁸ The FCC estimates it will take approximately 50 hours to comply with all three requirements (using an annual burden of 750 hours with 15 respondents).¹⁹ GTL submits that without the details of the required submissions it is difficult to predict the burden of these requirements, but 50 hours for all three requirements also is substantially underestimated.

COMMENTS

The Commission should not take any further action on the new information collection requirements pending the outcome of the ongoing judicial review of the *2015 ICS Order*. At least one petitioner has directly challenged the new reporting requirements at the D.C. Circuit, and numerous petitioners have challenged the FCC's ability to take action with respect to intrastate ICS matters or interfere with areas reserved to the states.²⁰ Both the mandatory data collection and the annual reporting requirement ask for information regarding intrastate ICS costs and revenues, the payment of site commissions, and other matters that may implicate intrastate ICS issues. The Commission should not require ICS providers to submit data on items for which the Commission's jurisdiction is unclear or until there is a demonstrated need for the information that justifies the administrative burden to provide it.²¹

¹⁷ *2015 ICS Order* ¶ 279.

¹⁸ FR Notice at 50500.

¹⁹ FR Notice at 50500.

²⁰ *See, e.g.,* No. 15-1498, *Securus Technologies, Inc. v. FCC*, Petition for Review (D.C. Cir. filed Dec. 28, 2015); No. 16-1029, *Telmate, LLC v. FCC*, Petition for Review (D.C. Cir. filed Jan. 21, 2016); No. 16-1038, *National Association of Regulatory Utility Commissioners v. FCC*, Petition for Review (D.C. Cir. Feb. 5, 2016).

²¹ *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

In addition, the Commission has grossly underestimated the amount of time it will take ICS providers to comply with the information collection requirements. As competitive, non-dominant carriers, ICS providers have not been required to establish cost-based rates or develop cost justification data to support their rates, especially not on a correctional facility-by-correctional facility basis as sought by the one-time data collection and annual reporting requirements. The Commission eliminated requirements for non-dominant carriers to support rates “with extensive cost and other economic data” given that “the cost of developing this information is relatively great” and the requirement “serves no useful purpose commensurate with the costs of compliance.”²² The Commission is well aware of the difficulty many ICS providers faced in producing data in response to the first mandatory, one-time data collection.²³ Nothing has changed in this respect. ICS providers are not cost-based, rate-of-return operating companies and continue to have the same obstacles with providing a response to the second mandatory, one-time data collection.

Further, the FR Notice provides no information to support the time estimates for ICS providers’ compliance with the new information collection requirements. There is no question that the burden of compliance will be significantly higher than estimated by the Commission, especially given that the templates for submission of the requested data have yet to be released by the Wireline Competition Bureau, and the Commission gave the Bureau unlimited “authority

comprehensive scheme designed to reduce the federal paperwork burden.”) (citing *Dole v. United Steelworkers*, 494 U.S. 26 (1990)).

²² *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 85 FCC 2d 1, ¶¶ 6, 97, 99 (1980) (“*Competitive Carrier Order*”).

²³ See, e.g., WC Docket No. 12-375, Inmate Calling Solutions, LLC Motion for Extension of Time to Respond to One-Time Mandatory Data Collection (dated July 7, 2014); WC Docket No. 12-375, CenturyLink Public Communications, Inc.’s Motion for Extension of Time to Respond to One-Time Mandatory Data Collection (dated July 3, 2014); WC Docket No. 12-375, Motion of Network Communications International Corp. for Extension of Time to Respond to One-Time Mandatory Data Collection for ICS Providers (dated July 3, 2014); WC Docket No. 12-375, Global Tel*Link Corporation Motion for Extension of Time to Respond to One-Time Mandatory Data Collection for ICS Providers (dated July 1, 2014).

to require an ICS provider to submit such data as the Bureau deems necessary to perform its review.”²⁴ GTL serves 1900 correctional facilities across the United States.²⁵ ICS providers will be required to report data “by facility and size of facility” under the Commission’s new annual reporting obligation,²⁶ and the one-time data collection also will require a review of data by correctional facility. Even if GTL spent only one (1) hour per correctional facility to collect, compile, and formulate the many data categories required by the Commission (which is an unrealistically low estimate), GTL alone would spend 1900 hours to comply with the mandatory one-time data collection, and a similar amount of time annually to comply with the annual reporting requirement. This is a far cry from the estimates provided by the Commission.²⁷

CONCLUSION

The PRA is intended to “minimize the federal paperwork burden . . . by eliminating regulatory burdens ‘which are found to be unnecessary and thus wasteful.’”²⁸ The proposed information collection requirements do not achieve this goal. The Commission has not implemented or required cost-based rate-of-return regulation for ICS providers, which renders the cost data collection of little use, and the other requirements have not been sufficiently defined

²⁴ 2015 ICS Order ¶ 201.

²⁵ *Rates for Interstate Inmate Calling Services*, 29 FCC Rcd 13170, n.40 (2014).

²⁶ 2015 ICS Order ¶ 267.

²⁷ FR Notice at 50499, 50500.

²⁸ *Black Citizens for a Fair Media v. FCC*, 719 F.2d 407, 416 (D.C. Cir. 1983) (citing S. Rep. No. 930, 96th Cong., 2d Sess. 3, *reprinted in* 1980 U.S.C.C.A.N. 6241, 6243).

to truly evaluate their true paperwork burden on the industry. Instead, the Commission should reevaluate the burdens and benefits associated with the new information collection requirements adopted in the *2015 ICS Order*, and await the outcome of the pending court proceedings before taking any further action on the new requirements.

Respectfully submitted,

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