

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

In the Matter of
Rates for Interstate Inmate Calling Services
WC Docket No. 12-375

ORDER

Adopted: October 15, 2021

Released: October 15, 2021

Reply Comment Date in response to the 2021 ICS Further Notice: December 17, 2021

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. By this Order, the Wireline Competition Bureau (Bureau) of the Federal Communications Commission grants in part and denies in part a motion filed by Global Tel*Link Corporation (GTL) seeking extensions of time for (1) filing Paperwork Reduction Act (PRA) comments on new information collection requirements adopted in the 2021 ICS Order currently due October 25, 2021, (2) reply comments in response to the 2021 ICS Further Notice, currently due October 27, 2021, and (3) comments and reply comments regarding the Third Mandatory Data Collection, currently due November 4 and November 19, 2021.

II. BACKGROUND

2. On May 24, 2021, the Commission released the ICS Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking in this proceeding. In the 2021 ICS Order, the Commission adopted various rules, some of which require approval from the Office of Management and Budget (OMB) under the PRA.

3. The 2021 ICS Further Notice set deadlines for filing comments and reply comments at 30 and 60 days, respectively, after a summary of the item was published in the Federal Register. The Federal Register published that summary on July 28, 2021, establishing an August 27, 2021 comment

1 Global Tel*Link Corporation, Motion for Extension of Time to File PRA Comments, FNPRM Reply Comments, and Comments on Third Mandatory Data Collection, WC Docket No. 12-375, at 1 (filed Oct. 06, 2021) (GTL Extension Request); see 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, FCC 21-60 (2021) (2021 ICS Order or 2021 ICS Further Notice).

2 See generally 2021 ICS Order.

3 Federal Communications Commission, Information Collection Being Reviewed by the Federal Communications Commission, 86 Fed. Reg. 47496 (Aug. 25, 2021).

deadline and a September 27, 2021 reply comment deadline. In response to a prior motion for extension of time, the Bureau released an order extending those deadlines to September 27, 2021 and October 27, 2021, respectively.⁵

4. As part of the *2021 ICS Order*, the Commission also adopted a Third Mandatory Data Collection.⁶ The Commission directed WCB and the Office of Economics and Analytics (collectively WCB/OEA) to develop instructions and a template for the data collection to be submitted to OMB for its approval under the PRA no later than 90 days after the *2021 ICS Order* becomes effective.⁷ As the *2021 ICS Order* will be effective on October 26, 2021, WCB/OEA must submit a template and instructions to OMB no later than January 24, 2022. On September 22, 2021, WCB/OEA released a public notice seeking comment on the proposed instructions, a template, and certification forms for the Third Mandatory Data Collection.⁸ The *Third MDC Public Notice* set the comment deadline at 30 days after the date of publication in the Federal Register and the reply comment deadline at 45 days after the date of publication in the Federal Register.⁹ The Federal Register published a summary of the public notice on October 5, 2021 and established deadlines of November 4, 2021 for comments and November 19, 2021 for reply comments on the *Third MDC Public Notice*.¹⁰

5. On October 6, 2021, GTL filed its Extension Request, seeking to extend the filing deadlines for (1) PRA comments for the new information collection requirements adopted in the *2021 ICS Order* from October 25, 2021 to November 8, 2021; (2) reply comments on the *2021 ICS Further Notice* from October 27, 2021 to November 17, 2021; and (3) comments and reply comments on the Third Mandatory Data Collection from November 4, 2021 and November 19, 2021 to November 24, 2021 and December 9, 2021, respectively.¹¹ GTL explains that it is “in the process of implementing the interim rates, ancillary service charges, and other changes” adopted in the *2021 ICS Order* that will become effective October 26, 2021.¹² GTL highlights that the October 26 implementation deadline in conjunction with the other comment deadlines present a “perfect storm” of deadlines and argues that “changing only one comment date will just continue to perpetuate the problem given the successive comment deadlines.”¹³ GTL submits that its extension requests are in the public interest because they would allow GTL and other providers to focus on the October 26, 2021 implementation deadline while allowing

⁵ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Order, DA 21-978 (WCB Aug. 10, 2021) (*Fifth FNPRM Extension Order*).

⁶ *2021 ICS Order* at 100-04, paras. 218-27.

⁷ *Id.* at 104, para. 227. We interpret this reference to the effective date of the *2021 ICS Order* as referring to the effective date of the rules not requiring OMB approval under the PRA. That effective date is October 26, 2021. *See* Federal Communications Commission, *Rates for Interstate Inmate Calling Services*, 86 Fed. Reg. 40862 (July 28, 2021).

⁸ *Wireline Competition Bureau and Office of Economics and Analytics Seek Comment on Upcoming Third Mandatory Data Collection for Inmate Calling Services*, WC Docket No. 12-375, DA 21-1192 (WCB/OEA Sept. 22, 2021) (*Third MDC Public Notice*).

⁹ *Id.*

¹⁰ Federal Communications Commission, *Rates for Interstate Inmate Calling Services*, 86 Fed. Reg. 54897 (Oct. 05, 2021) (*Third MDC Federal Register Notice*). Separately, on October 5, 2021, the Federal Register published a notice seeking comment on the new information collection requirements associated with the Third Mandatory Data Collection for purposes of the PRA and setting a comment deadline of December 6, 2021. *See* Federal Communications Commission, *Information Collection Being Reviewed by the Federal Communications Commission*, 86 Fed. Reg. 54970 (Oct. 5, 2021). GTL’s Motion does not address this deadline.

¹¹ *See* GTL Extension Request at 6.

¹² *Id.* at 3-4.

¹³ *Id.* at 4-5.

stakeholders time to evaluate the information submitted in initial comments on the *2021 ICS Further Notice* and to respond to the questions in the *Third MDC Public Notice*.¹⁴ GTL explains that the National Sheriffs' Association, Securus Technologies, Pay Tel Communications, and NCIC Inmate Communications do not oppose its extension requests and that several advocacy groups support extending the reply comment deadline on the *2021 ICS Further Notice* to December 10, 2021.¹⁵ GTL notes that the Prison Policy Initiative does not support extending that reply comment deadline but does not object to extending the PRA comment deadline and the deadlines on the Mandatory Data Collection.¹⁶

6. On October 8, 2021, the Wright Petitioners, Benton Institute for Broadband & Society, Free Press, New America's Open Technology Institute, Public Knowledge, and the United Church of Christ, OC Inc. (the Public Interest Parties) filed a reply to GTL's Extension Request.¹⁷ The Public Interest Parties support extending the deadline to file reply comments in connection with the *2021 ICS Further Notice* but oppose GTL's request for extensions of the PRA and Third Mandatory Data Collection deadlines.¹⁸ The Public Interest Parties also propose further extending the deadline for reply comments on the *2021 ICS Further Notice* to December 17, 2021, arguing that such an extension "will allow interested parties to fully evaluate and respond to issues raised in the comments while also submitting PRA and Third Mandatory Data Collection comments."¹⁹ The Public Interest Parties emphasize that "[g]iven the importance of obtaining updated cost data as soon as possible . . . it is critical that the Third Mandatory Data Collection is finalized 'not later than 90 days' after the effective date of the *2021 ICS Order*, as required by the Commission" and argue that extending deadlines related to the Third Mandatory Data Collection "is unnecessary, could harm the public interest, and risks delaying the collection itself."²⁰

III. DISCUSSION

7. As set forth in section 1.46 of the Commission's rules, it is the policy of the Commission that extensions of time shall not be routinely granted.²¹ However, extensions may be considered "to the extent that good cause for an extension is demonstrated."²² The criteria for granting requests for extensions of time "are that the extension be in the public interest, cause no harm to any party in the proceeding, and cause no significant delay."²³ The Commission has previously found that an extension of time is warranted when it is "necessary to ensure that the Commission receives full and informed responses and that affected parties have a meaningful opportunity to develop a complete record for the Commission's consideration."²⁴

¹⁴ *Id.* at 5.

¹⁵ *Id.* at 2.

¹⁶ *Id.* at 2.

¹⁷ Public Interest Parties Reply to GTL Motion for Extension of Time, WC Docket No. 12-375 (filed Oct. 8, 2021). (Public Interest Parties Reply).

¹⁸ *Id.* at 1.

¹⁹ *Id.* at 2.

²⁰ *Id.* at 2.

²¹ 47 CFR § 1.46.

²² See, e.g., *Audio Enterprises, Inc. Apparent Liability for Forfeiture*, File No. ENF-88-04, Order, 3 FCC Rcd 5402, para. 2 (Com. Car. Bur. 1988).

²³ *Id.*

²⁴ See, e.g., *Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114, Order, 35 FCC Rcd 193, 194, para. 3 (PSHSB 2020); see also *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, 35 FCC Rcd 2998, 2999 para. 6 (WCB & OEA 2020).

8. Here, we find good cause to extend the deadline to file reply comments in response to the *2021 ICS Further Notice*, as proposed by both GTL and the Public Interest Parties. As an initial matter, we are sensitive to GTL's concern that the flow of implementation and comment deadlines in this proceeding create a "perfect storm" that, without some adjustment, would make it difficult for GTL and other parties to meaningfully participate in each comment process.²⁵ We appreciate what appears to be the unanimous support of interested parties for the goal of more fully developing the record in this proceeding.²⁶ By moving the deadline to file reply comments on the *2021 ICS Further Notice* to well after both the deadline for reply comments on the *Third MDC Public Notice* and the December 6, 2021 deadline for PRA comments on the Third Mandatory Data Collection, we are persuaded that all interested parties will be granted sufficient time to meaningfully respond to each of the relevant deadlines. Accordingly, we extend the deadline to file reply comments in response to the *2021 ICS Further Notice* to December 17, 2021.

9. However, we do not find good cause to extend the deadline for commenting on the paperwork implications of the consumer disclosure requirements and requirements for providers seeking waiver of the Commission's rate cap and ancillary charge fee caps adopted in the *2021 ICS Order*.²⁷ Parties have known that those requirements would be subject to OMB approval since the Commission released the *2021 ICS Order* on May 24, 2021. Accordingly, we believe there has been ample time to consider the paperwork implications of those requirements, and no party has provided an explanation as to why an extension of this deadline would be reasonable or in the public interest in light of that fact. We find especially meaningful the fact that an extension of this deadline would only delay the effective date of the information collection requirements adopted in the *2021 ICS Order*. The consumer disclosure requirements, for example, are grounded in the "strong public interest in facilitating greater transparency" with respect to inmate calling services rates for incarcerated people and their loved ones who "ultimately bear the burden of these payments."²⁸ As such, we conclude that an extension of this deadline would not serve the public interest.

10. We also do not find good cause to delay deadlines associated with the Third Mandatory Data Collection. As the Commission explained in the *2021 ICS Order*, the Third Mandatory Data Collection "is essential to enable [it] to adopt permanent interstate and international rate caps," and that "the benefits of conducting a third collection far outweigh any burden on providers."²⁹ GTL's proposal to extend the comment deadline risks delaying the Third Mandatory Data Collection. Moreover, delaying these comment deadlines could endanger the Commission-established January 24, 2022 deadline for WCB/OEA to submit the template and instructions for the Third Mandatory Data Collection to OMB, as any delays in these comment deadlines would significantly limit the time WCB/OEA have to review the comments prior to the January 24, 2022 deadline or alternatively would result in adversely delaying the submission of the data collection to OMB. In light of the clear importance and time constraints of the Third Mandatory Data Collection, we conclude that GTL has not shown good cause to extend these deadlines nor would it serve the public interest to do so.

11. On balance, we conclude that extending the reply comment deadline for the *2021 ICS Further Notice* to December 17, 2021 will provide interested parties the time needed to participate in each

²⁵ GTL Extension Request at 4-5.

²⁶ See *id.* at 5 (explaining that "[t]ime for further review and discussion of these important issues also will enable GTL and other commenters to provide a more complete factual and legal record in this proceeding."); Public Interest Parties Reply at 3 (highlighting the need to ensure affected parties have a meaningful opportunity to develop a complete record).

²⁷ See *2021 ICS Order* at 166-67, Appx. A.

²⁸ *Id.* at 72, para. 162.

²⁹ *Id.* at 101-02, para. 221.

comment or reply cycle as desired without unnecessarily impeding or delaying the Third Mandatory Data Collection or implementation of the transparency rules.

IV. ORDERING CLAUSES

12. Accordingly, IT IS ORDERED, pursuant to sections 0.204, 0.291, and 1.46 of the Commission's rules, 47 CFR §§ 0.204, 0.291, 1.46, that the Motion for Extension of Time filed by GTL on October 7, 2021 is GRANTED IN PART and DENIED IN PART as described herein.

13. IT IS FURTHER ORDERED that the date for filing reply comments on the *2021 ICS Further Notice* is EXTENDED to December 17, 2021.

14. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an email to: fcc504@fcc.gov, or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

15. For further information concerning this Order, please contact Simon Solemani of the Wireline Competition Bureau, Pricing Policy Division, at (202) 418-2270 or simon.solemani@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

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