



**Federal Communications Commission
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SMALL ENTITY COMPLIANCE GUIDE

Rates for Interstate Inmate Calling Services

FCC 22-76

WC Docket No. 12-375

Released September 30, 2022

In accordance with the requirements of section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, this Small Entity Compliance Guide (Guide) is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties, or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

Videophone: 1-844-4-FCC-ASL (1-844-432-2275)

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I. OBJECTIVES OF THE PROCEEDING

In the *Rates for Interstate Inmate Calling Services*, Fourth Report and Order and Sixth Further Notice of Proposed Rulemaking, WC Docket No. 12-375 (rel. September 30, 2022), the Federal Communications Commission (Commission) acted to improve access to communications services for incarcerated people with communication disabilities, and adopted other reforms to lessen the financial burden incarcerated people and their loved ones face when using calling services.¹ Historically, the Commission used the term “inmate calling services” or “ICS” when referring to phone services provided to incarcerated people. In 2023, the Commission began using the term “incarcerated people’s communications services” or “IPCS” instead of “inmate calling services” or “ICS” to refer to the broader range of communications services subject to the Commission’s jurisdiction following the enactment of the Martha Wright-Reed Just and Reasonable Communications Act of 2022.²

The Commission has an obligation under section 225 of the Communications Act of 1934, as amended (Act), to ensure that Telecommunications Relay Services (TRS) are available, to the extent possible, and in the most efficient manner, to individuals with communication disabilities.³ This obligation supplements and focuses the Commission’s obligation under section 201(b) of the Act to ensure all people, including incarcerated people, have access to calling services under just and reasonable rates, terms, and practices.⁴

In May 2021, the Commission issued a Third Report and Order in this docket that, among other actions, reaffirmed its commitment to ensure that incarcerated people with disabilities have access to functionally equivalent telecommunications services.⁵ In the *2021 ICS Order*, the Commission lowered, on an interim basis, its caps on the amounts providers serving prisons or jails with 1,000 or more incarcerated people may charge for interstate calls and capped, for the first time, the providers’ charges for international calls. An accompanying Fifth Further Notice of Proposed Rulemaking was issued with the *2021 ICS Order* proposing to expand access to all eligible relay services for incarcerated people with communication disabilities, and seeking comment on a number of other issues, including the methodology to be used in setting permanent interstate and international rate caps, the need for periodic data collections, and additional reforms to our ancillary service charge rules.⁶

In the *2022 ICS Order*, the Commission adopted several requirements to improve access to communications services for incarcerated people with communication disabilities. It required that providers of incarcerated people’s communications service provide access to all forms of relay services eligible for TRS Fund support in any correctional facility where broadband is available and where the average daily population incarcerated in that jurisdiction (i.e., city, county, state, or the United States)

¹ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Fourth Report and Order and Sixth Further Notice of Proposed Rulemaking, FCC 22-76 (Sept. 30, 2022) (*2022 ICS Order*).

² Martha Wright-Reed Just and Reasonable Communications Act of 2022, Pub. L. No. 117-338, 136 Stat. 6156 (Martha Wright-Reed Act or the Act); 47 U.S.C. §§ 152(b), 153(1)(E), 276(b)(1)(A), (d).

³ 47 U.S.C. § 225(b)(1). TRS are telephone transmission services that provide the ability of an individual with a communications disability to engage in communication in a manner that is functionally equivalent to the ability of a hearing individual who does not have a communications disability. *Id.* § 225(a)(3).

⁴ *Id.* § 201(b).

⁵ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking, 36 FCC Rcd 9519 (2021).

⁶ *Id.*

totals 50 or more persons.⁷ It also required that where providers of incarcerated people's communications service are required to provide access to all forms of TRS, they also must allow American Sign Language (ASL) direct, or point-to-point video communication.⁸ The Commission clarified and expanded the scope of the restrictions on such providers assessing charges for TRS calls, expanded the scope of the required annual reports to reflect the above changes, and modified TRS user registration requirements to facilitate the use of TRS by eligible incarcerated persons.

The Commission also adopted reforms to address allegations of abusive provider practices. For example, the Commission prohibited providers from seizing, or otherwise disposing of funds in inactive calling services accounts until at least 180 calendar days of continuous inactivity has passed in such accounts, after which providers are required to refund the balance or treat the funds in accordance with any applicable state law requirements. Additionally, the Commission lowered the cap on provider charges for individual calls when neither the incarcerated person nor the person being called has an account with the provider, and lowered the cap on provider charges for processing credit card, debit card, and other payments to calling services accounts.

II. COMPLIANCE REQUIREMENTS

In the *2022 ICS Order*, the Commission adopted reforms to improve access to, and reduce the costs of, communications services for incarcerated people with communication disabilities. More specifically, modifications and changes to the Commission's rules were made to Subpart F Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities, and Subpart FF Inmate Calling Services.

A. Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities

The Commission's adoption of the requirement that providers of incarcerated people's communications services provide access to all forms of relay services and direct video communications for incarcerated people who communicate using ASL resulted in two changes to the terms associated with the provision of video services for incarcerated people who communicate using ASL in such settings. The term, Carceral point-to-point video service was added to section 64.601 of the Commission's rules, and the term, Qualified Direct Video Entity in section 64.601 of the Commission's rules was amended to include carceral point-to-point communications.

1. ***Definitions and provisions of general applicability. (47 CFR §§ 64.601(a)(11), (a)(35)(i)-(ii))***

Carceral point-to-point video service, means a point-to-point video service that enables incarcerated people to engage in real-time direct video communication in ASL with another ASL speaker.

Qualified Direct Video Entity, providers of incarcerated people's communications services requesting authorization to provide point-to-point video service in correctional facilities that enable incarcerated people to engage in real-time direct video communication in ASL, means

⁷ 47 CFR § 64.6040(b). The forms of TRS eligible for TRS Fund compensation are Traditional text telephone (TTY)-based TRS, Speech-to-Speech Relay Service (STS), (CTS), Internet Protocol Captioned Telephone Service (IP CTS); non-Internet Protocol Captioned Telephone Service; Internet Protocol (IP) Relay Service; and Video Relay Service (VRS).

⁸ 47 CFR § 64.6040(b)(2)(ii).

an individual or entity that is approved by the Commission for access to the TRS Numbering Database that is engaged in Carceral point-to-point video service as that term is defined in section 64.601(a).

The TRS mandatory minimum standards were updated to clarify specific provisions relating to the number and types of calls, in the provisioning of TRS services in correctional facilities.

2. *Mandatory Minimum Standards. (47 CFR §§ 64.604(a)(3)(i), (a)(3)(ix))*

Consistent with the obligations of telecommunications carrier operators, Communications Assistants (CAs) are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services, except that the number and duration of calls to or from incarcerated persons may be limited in accordance with a correctional authority's generally applicable policies regarding telephone calling by incarcerated persons.

TRS providers serving incarcerated persons are not required to allow types of calls or calling features that are not permitted for hearing people incarcerated in the correctional facility being served.

The Internet-based TRS registration requirements applicable to individual user registration, enterprise registration for VRS, and verification of registration data were modified to facilitate the use of the registration procedures by providers of Internet-based TRS service in a correctional setting.

3. *Internet-based TRS registration and verification. (47 CFR § 64.611(k)(1)(i)-(iv), (k)(2))*

(1) *Individual user registration. (47 CFR § 64.611(k)(1)(i)-(iv))*

Registration information and documentation. If an incarcerated individual eligible to use TRS registers with an Internet-based TRS provider, the provider must collect and transmit to the TRS User Registration Database the information and documentation, except that:

- (i) The residential address specified for such incarcerated person must be the name of the correctional authority with custody of that person along with the main or administrative address of such authority;
- (ii) A Registered Location does not need to be provided; and
- (iii) If an incarcerated person does not have a Social Security number or Tribal Identification number, an identification number assigned by the correctional authority along with the facility identification number, if there is one, may be provided in lieu of the last four digits of a Social Security number or a Tribal Identification number.

Verification of Video Relay Services (VRS) and Internet Protocol Captioned Telephone Service (IP CTS) registration data. An incarcerated person's identity and address may be verified for purposes of VRS or IP CTS registration, based on documentation, such as a letter or statement, provided by an official of a correctional authority that states the name of the person; the person's identification number assigned by the correctional authority; the name of the correctional authority; and the address of the correctional facility. The VRS or IP CTS provider must transmit the verification documentation to the TRS User Registration Database administrator.

Upon release (or transfer to a different correctional authority) of an incarcerated person who has registered for VRS or IP CTS, the VRS or IP CTS provider with which the person has registered must update the person's registration information within 30 days after the release or transfer. The updated information must include, in the case of release, the individual's full residential address and Registered Location, and in the case of transfer, the updated information must include the name of the person; the person's identification number assigned by the correctional authority; the name of the correctional authority; and the address of the correctional facility.

VRS providers must not allow dial-around calls by incarcerated persons.

- (2) *Enterprise user registration for VRS.* A TRS Provider that is providing VRS to incarcerated individuals under enterprise registration may assign to a correctional authority a pool of telephone numbers that may be used interchangeably with any videophone or other user device made available for the use of VRS in correctional facilities overseen by such authority. The address of the organization specified may be the main or administrative address of the correctional authority, and a Registered Location does not need to be provided.

To facilitate the provision of carceral point-to-point video service, the Commission expanded the definition of qualified direct video entities to include entities that provide carceral point to video communications and allow such entities to seek certification as a qualified direct video entity.

4. *Numbering directory for Internet-based TRS users.* (47 CFR §§ 64.613(a)(2), (c)(1)(v), (c)(3)(ii), (c)(5)(ii)-(iii), (c)(6) and (c)(7)(iii)-(iv))

For each record associated with a geographically appropriate North American Numbering Plan (NANP) telephone number for a registered VRS user, enterprise videophone, public videophone, direct video customer support center, carceral point-to-point video service, or hearing point-to-point video user, the Uniform Resource Identifier (URI) must contain a server domain name or the IP address of the user's device. For each record associated with an IP Relay user's geographically appropriate NANP telephone number, the URI must contain the user's username and domain name that can be subsequently resolved to reach the user.

For direct video customer support and carceral point-to-point video service, any person seeking to access the TRS Numbering Directory as a Qualified Direct Video Entity must submit an application to the Commission and are subject to a number of requirements, including:

- (1) The application must include certification that the applicant's description of service meets the definition of direct video customer support or carceral point-to-point video service and that the information provided is accurate and complete.
- (2) Authorization to access the TRS Numbering Directory will terminate automatically if one year passes with no call-routing queries received regarding any of the Qualified Direct Video Entity's NANP telephone numbers for direct video customer support.
- (3) A Qualified Direct Video Entity must comply with all relevant rules and obligations applicable to VRS providers' access to the TRS Numbering Directory, and the use of numbers provisioned in the TRS Numbering Directory, including:

- (A) Being able to make point-to-point calls to any VRS user in accordance with all interoperability standards applicable to VRS providers, including, but not limited to, the specified technical standards in section 64.621(b); and
 - (B) For direct video customer support being able to receive point-to-point or VRS calls from any VRS user in accordance with all interoperability standards applicable to VRS providers, including, but not limited to, specified technical standards in section 64.621(b).
- (4) A Qualified Direct Video Entity engaged in direct video customer support must ensure that each customer support center is able to initiate a call transfer that converts a point-to-point video call into a VRS call, in the event that a VRS user communicating with a direct video customer agent needs to be transferred to a hearing person while the call is in progress. Each VRS provider must be capable of activating an effective call transfer procedure within 60 days after receiving a request to do so from a Qualified Direct Video Entity engaged in direct video customer support.
- (5) For each direct video number to be entered into the TRS Numbering Directory, unless otherwise instructed by the TRS User Registration Database administrator, a Qualified Direct Video Entity must create an equivalent entry in the TRS User Registration Database by providing, among other information:
- (A) The name of the correctional facility or end-user customer support center (if different from the Qualified Direct Video Entity); and
 - (B) Contact information for the correction facility or end-user customer support call centers.

B. Inmate Calling Services

In the *2022 ICS Order*, the Commission clarified and expanded the scope of the restrictions on providers of incarcerated people’s communications services assessing charges for TRS calls, expanded the scope of the annual reports to reflect these rule changes, and adopted reforms to address allegations of abusive ICS provider practices. These changes are reflected in section 47 CFR Part 64 Subpart FF of the Commission’s rules. Additionally, two new terms relevant to the adopted reforms, “Controlling Judicial or Administrative Mandate” and “Jurisdiction,” were added to the definitions in 47 CFR § 64.6000, and the definitions of the terms “Jail” and “Prison” in this section were amended to conform the wording of those rules with the Commission’s intent when it originally adopted those definitions.

1. Definitions. (47 CFR §§ 64.6000(m)(3), (r), (y)(1)-(4), (z)(1)-(2))

Jail. The definition of jail is expanded to include a facility of a local, state, or federal law enforcement agency that is used primarily to hold individuals who are post-conviction and awaiting transfer to another facility. It also includes city, county, or regional facilities that have contracted with a private company to manage day-to-day operations; privately owned and operated facilities primarily engaged in housing city, county or regional inmates; facilities used to detain individuals, operated directly by the Federal Bureau of Prisons or U.S. Immigration and Customs Enforcement, or pursuant to a contract with those agencies; juvenile detention centers; and secure mental health facilities.

Prison. The definition of prison is expanded to include public and private facilities that provide outsource housing to other agencies such as the State Departments of Correction and the Federal Bureau of Prisons; and facilities that would otherwise fall under the definition of a Jail but in which the majority of inmates are post-conviction and are committed to confinement for sentences of longer than one year.

Controlling Judicial or Administrative Mandate, a new term, means:

- (1) A final court order requiring an incarcerated person to pay restitution;
- (2) A fine imposed as part of a criminal sentence;
- (3) A fee imposed in connection with a criminal conviction; or
- (4) A final court or administrative agency order adjudicating a valid contract between the provider and the account holder, entered into prior to September 30, 2022, that allows or requires that an Inmate Calling Service Provider act in a manner that would otherwise violate the Commission's rules regarding interim protections of consumer funds in inactive accounts.

Jurisdiction, a new term, means:

- (1) The state, city, county, or territory where a law enforcement authority is operating or contracting for the operation of a Correctional Facility; or
- (2) The United States for a Correctional Facility operated by or under the contracting authority of a federal law enforcement agency.

2. *Ancillary Service Charges. (47 CFR §§ 64.6020(b)(2), (b)(5))*

The rate providers charge for a permitted Single-Call and Related Services must not be more when the transaction is paid for through an automated payment system, \$3.00 per transaction, plus the effective, per-minute rate; or when the transaction is paid via a live agent, \$5.95 per transaction, plus the effective, per-minute rate.

The rate providers charge for a permitted Third-Party Financial Transaction Fee, must not be more than when the transaction is paid through an automated payment system, \$3.00 per transaction; or when the transaction is paid via a live agent, \$5.95 per transaction.

3. *Communications Access for Incarcerated People with Communication Disabilities. (47 CFR §§ 64.6040(a), (b)(1), (b)(2)(i)-(iii), (c)(1)-(4), (d)(1)-(4))*

A Provider must provide incarcerated people access to TRS and related communication services, except where the correctional authority overseeing a facility prohibits such access.

A Provider must provide access for incarcerated people with communication disabilities to Traditional TTY-based TRS TTY and STS. Beginning January 1, 2024, a Provider serving a correctional facility in any jurisdiction with an Average Daily Population of 50 or more incarcerated persons must:

- (1) Provide access to any form of TRS in addition to TTY-based TRS and STS, that is eligible for TRS Fund support (except that a Provider need not provide access to non-IP CTS in any facility where it provides access to IP CTS), where broadband Internet access

service is available; and

(2) Provide access to a point-to-point video service that allows communication in ASL with other ASL users, where broadband Internet access service is available; and

(3) Provide access to non-IP CTS, in addition to TTY and STS, where broadband Internet access service is not available.

As part of its obligation to provide access to TRS, a Provider must:

(1) Make all necessary contractual and technical arrangements to ensure that, consistent with the security needs of a correctional facility, incarcerated individuals eligible to use TRS can access at least one certified provider of each form of TRS required by the Commission's rules;

(2) Work with correctional authorities, equipment vendors, and TRS providers to ensure that screen-equipped communications devices such as tablets, smartphones, or videophones are available to incarcerated people who need to use TRS for effective communication, and all necessary TRS provider software applications are included, with any adjustments needed to meet the security needs of the institution, provide compatibility with institutional communication systems, and allow operability over the ICS provider's network;

(3) Provide any assistance needed by TRS providers in collecting the registration information and documentation required from incarcerated users and correctional authorities; and

(4) Notify the TRS provider(s) with which an incarcerated person has registered, when an incarcerated person who has individually registered to use VRS, IP Relay, or IP CTS is released from incarceration or transferred to another correctional authority.

Charges for TRS and related communication services are subject to the following requirements:

(1) Except as permitted below, no Provider shall levy or collect any charge or fee on or from any party to a TRS call to or from an incarcerated person, or any charge for the use of a device or transmission service when used to access TRS from a correctional facility.

(2) When providing access to IP CTS or CTS, a Provider may assess a charge for such IP CTS or CTS call that does not exceed the charge levied or collected by the Provider for a voice telephone call of the same duration, distance, jurisdiction, and time-of-day placed to or from an individual incarcerated at the same correctional facility.

(3) When providing access to a point-to-point video service for incarcerated individuals with communication disabilities who can use ASL, the total charges or fees that a Provider levies on or collects from any party to such point-to-point video call, including any charge for the use of a device or transmission service, must not exceed the charge levied or collected by the Provider for a voice telephone call of the same duration, distance, jurisdiction, and time-of-day placed to or from an individual incarcerated at the same correctional facility.

(4) Providers are prohibited from levying or collecting any charge in excess of 25

percent of the applicable per-minute rate for TTY-to-TTY calls when such calls are associated with incarcerated people's communications services.

4. ***Interim Protections of Consumer Funds in Inactive Accounts. (47 CFR §§ 64.6130(a)(1)-(3), (b), (c), (d), (e))***

All funds deposited into a debit calling or prepaid calling account that can be used to pay for interstate or international [incarcerated people's communications services](#) or associated ancillary services remain the property of the account holder unless or until the funds are either:

- (1) Used to pay for products or services purchased by the account holder or the incarcerated person for whose benefit the account was established;
- (2) Disposed of in accordance with a Controlling Judicial or Administrative Mandate; or
- (3) Disposed of in accordance with applicable state law requirements, including, but not limited to, requirements governing unclaimed property.

No provider is permitted to seize or otherwise dispose of unused funds in a debit calling or prepaid calling account until at least 180 calendar days of continuous account inactivity has passed, or at the end of any alternative period set by state law, except as provided in section 64.6130(a), explained above, or through a refund to the customer.

The 180-day period, or alternative period set by state law, must be continuous. Any of the following actions by the account holder or the incarcerated person for whose benefit the account was established ends the period of inactivity and restarts the 180-day period:

- (1) Depositing, crediting, or otherwise adding funds to an account;
- (2) Withdrawing, spending, debiting, transferring, or otherwise removing funds from an account; or
- (3) Expressing an interest in retaining, receiving, or transferring the funds in an account, or otherwise attempting to exert or exerting ownership or control over the account or the funds held within the account.

After 180 days of continuous account inactivity have passed, or at the end of any alternative period set by state law, the provider must make reasonable efforts to refund the balance in the account to the account holder.

If a provider's reasonable efforts to refund the balance of the account fail, the provider must treat the remaining funds in accordance with applicable state consumer protection law requirements concerning unclaimed funds or the disposition of such funds.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The *2022 ICS Order* contains new or modified information collection and reporting requirements that are codified in section 64.6060 of the Commission's rules, which set forth requirements for annual reports and certifications. In addition to the information on interstate, intrastate, and international incarcerated people's communications services that providers are already required to include in their annual reports to the Commission, providers must also include in those reports to the Commission the following information for each facility pursuant to 47 CFR §§ 64.6060(a)(5), (a)(6)(i)-(iii), and (a)(7):

1. The types of TRS that may be accessed from the facility.

2. The number of calls completed during the reporting period for each of the following categories: (a) TTY-to-TTY calls; (b) point-to-point video calls placed or received by ASL users as those terms are defined in section 64.601(a); and (c) TRS calls, broken down by each form of TRS that can be accessed from the facility.
3. The number of complaints that the reporting provider received in each of the categories set forth in section 64.6060(a)(6).

IV. IMPLEMENTATION DATES

The rules adopted in the *2022 ICS Order* became effective on January 9, 2023, except for section 64.611(k)(1)(i-iii), which became effective on December 21, 2023; section 64.6040(c), which became effective on January 16, 2024; and section 64.6060(a)(5-7), which will not become effective until after the Office of Management and Budget (OMB) completes any review required under the Paperwork Reduction Act. Once OMB completes that review, the Wireline Competition Bureau will publish a notice in the Federal Register establishing an effective date for section 64.6060(a)(5-7).

V. INTERNET LINKS

A copy of the *2022 ICS Order* is available at: <https://docs.fcc.gov/public/attachments/FCC-22-76A1.pdf>.

A copy of the Federal Register Summary of the *2022 ICS Order*, 87 Fed. Reg. 75496 (Dec. 9, 2022) is available at: <https://www.govinfo.gov/content/pkg/FR-2022-12-09/pdf/2022-25192.pdf>.

A copy of the Federal Register notifications announcing effective dates and corrections are available at:

88 Fed. Reg. 88257 (Dec. 21, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-12-21/pdf/2023-28007.pdf>.

89 Fed. Reg. 269 (Jan. 3, 2024), <https://www.govinfo.gov/content/pkg/FR-2024-01-03/pdf/2023-28765.pdf>.

89 Fed. Reg. 2514 (Jan. 16, 2024), <https://www.govinfo.gov/content/pkg/FR-2024-01-16/pdf/2024-00350.pdf>.

89 Fed. Reg. 8549 (Feb. 8, 2024), <https://www.govinfo.gov/content/pkg/FR-2024-02-08/pdf/2024-02384.pdf>.