

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

In the Matter of

Incarcerated People’s Communications
Services Implementation of the Martha
Wright-Reed Act

Rates for Interstate Inmate Calling Services

WC Docket No. 23-62

WC Docket No. 12-375

**REPLY IN SUPPORT OF APPLICATION FOR REVIEW
OF THE PUBLIC INTEREST PARTIES**

The Commonwealth of Massachusetts, the State of California, State of Illinois, State of Maryland, State of Minnesota, State of New Jersey, State of New York, and State of Rhode Island (“the States”) submit this Reply in support of the Public Interest Parties’ application for review of the Wireline Competition Bureau’s (“Bureau”) abrupt decision to suspend the Federal Communication Commission’s (“FCC”) 2024 Order on Incarcerated People’s Communications Services (“2024 IPCS Order”), thereby delaying implementation of important reforms to the provision of communication services in correctional and detention facilities by an indefinite period.¹ As described further below, the unreasonable delay associated with this suspension—which the Bureau has styled as an industry-wide “temporary waiver”²—will cause serious harm to consumers and the public interest. As the Application for Review correctly lays out, the Bureau’s Suspension Order violates Congress’s mandate that these reforms be implemented

¹ See *In re Incarcerated People’s Communications Services; Implementation of the Martha Wright-Reed Act*, WC Docket Nos. 23- 62, 12-375, Order, DA 25-565 ¶ 1 (WCB rel. June 30, 2025) (“Suspension Order”).

² See *id.* at *5, ¶ 9.

within 24 months of the Act’s passage, as articulated in the Martha Wright-Reed Just and Reasonable Communications Act of 2022 (“Martha Wright-Reed Act”). *See* App. at 7-8. Further, the Bureau’s actions violate the Administrative Procedure Act in numerous respects, including by failing to comply with required notice and comment rulemaking, arbitrarily and capriciously ignoring critical issues and evidence in the record, and violating the Bureau’s own regulations. *See* App. at 9-22.

The States recognize the widespread benefits of low-cost communications for incarcerated people, which the Bureau has failed to adequately consider. For example, the Commonwealth of Massachusetts’ experience in making phone and video calls free for incarcerated persons since 2023 demonstrates that it can be done without sacrificing safety and without leading to the reduction or elimination of calling services altogether. The States urge the FCC to grant review of the Application and to reverse the Suspension Order so that the 2024 IPCS Order can become effective on the timeline prescribed by Congress and previously established by the Commission without further delay.

I. Background

The FCC’s 2024 IPCS Order was undertaken in response to bipartisan legislation, the Martha Wright-Reed Act, which was aimed at ensuring affordable and accessible communication services for incarcerated people and their families. Specifically, the Act expanded the FCC’s authority to regulate communications for incarcerated people.³ The Act required the FCC to “promulgate any regulations necessary to implement th[e] Act ... not earlier than 18 months and

³ *See* Martha Wright-Reed Act, § 2(b)(3)(E); *see also* 2024 IPCS Order, 39 FCC Rcd at 7652-55 ¶¶ 9-14; 168 Cong. Rec. H10027-28 (daily ed. Dec. 22, 2022) (statements of Reps. Pallone and Rush) (referencing the *Global Tel* Link v. FCC*, 866 F.3d 397, 403 (D.C. Cir. 2017) decision that the Commission lacked authority over intrastate rates).

not later than 24 months after the date of enactment...”⁴ The Act was signed into law in January 2023.⁵

Following its passage, the FCC commenced a rulemaking process, soliciting data and assembling a robust record to aid in the FCC’s adoption of regulations that would implement the Martha Wright-Reed Act. The unanimously-adopted 2024 IPCS Order met the congressionally-mandated deadline. The 2024 IPCS Order made important changes to the preexisting status quo by establishing rate caps, prohibiting site commissions, and eliminating various ancillary fees by requiring that they be included in the rate caps or not be charged at all, among other changes.⁶

However, the Suspension Order issued on June 30, 2025, abruptly reversed course. The Suspension Order waived compliance deadlines with respect to the 2024 IPCS Order’s rate cap, site commission, and per minute pricing rules until April 1, 2027, disregarding the Commission’s own process and extensive fact-finding in setting the 2024 IPCS Order in the first instance.⁷ Indeed, the 2024 IPCS Order carefully weighed the need to give communications providers and correctional facilities time to adapt to the new rules.⁸ Notwithstanding this careful balancing, the Bureau has now backtracked without considering the impact on consumers who will continue to face unfair and exorbitant rates to communicate with incarcerated loved ones.⁹ Phone and video

⁴ See Martha Wright-Reed Act, § 3(a).

⁵ See Press Release: Congress Enacts Martha Wright-Reed Just and Reasonable Communications Act of 2022, <https://www.fcc.gov/congress-enacts-martha-wright-reed-just-and-reasonable-communications-act-2022-updated-link>.

⁶ See 2024 IPCS Order, 39 FCC Rcd at 7650, ¶ 3.

⁷ See Suspension Order at *11, ¶ 22 (“[W]e waive the deadlines for any applicable interim rate caps, site commission, and per-minute pricing rules for the provision of video IPCS unless or until April 1, 2027 or any alternative date the Commission sets as part of further action in this proceeding.”).

⁸ See 2024 IPCS Order, 39 FCC Rcd at 7950-54, ¶¶ 587-94.

⁹ The Bureau cites the unintended consequence that some facilities may eliminate IPCS altogether as well as concerns regarding the need to maintain safety and security in the provision of IPCS; however, the Bureau wholly disregards the effect of continued high rates and exorbitant charges on incarcerated people and their families, which animated the passage of the Martha-Wright Reed Act in the first instance. See Suspension Order at *8-10, ¶¶ 16-20.

communication are typically the primary way that incarcerated people maintain connections with their families and community. Promoting and deepening those connections furthers the critical goals of rehabilitation, reducing recidivism, and helping children weather the absence of their incarcerated parents. By reversing these critical reforms until April 2027 or later, the Suspension Order will compromise these goals.

As set forth below, various states—including Massachusetts, California, Illinois, Maryland, Minnesota, New Jersey, New York, and Rhode Island—have already made all prison phone calls free and have succeeded in implementing such reforms on a much faster timeline without compromising the security of prisons or reducing the availability of communication services to incarcerated individuals and their families. Further, the benefits of eliminating communication barriers for incarcerated individuals and their families are well-documented and have been borne out in states where communication costs have been lowered or eliminated. The experiences of states that have eliminated or reduced the cost of communications for incarcerated individuals and their families undercuts the premise of the Suspension Order that the 2024 IPCS Order’s rate caps will jeopardize facility safety or reduce calling services. For all the reasons described further herein, the Commission should review and reverse the Bureau’s arbitrary and unlawful Suspension Order.

II. Argument

A. Barriers to Communicating with Incarcerated Individuals Are Harmful to Those Individuals, Their Families, and Society at Large.

The Martha Wright-Reed Act was passed based on the bipartisan recognition that easing barriers to communication with incarcerated family members has widespread positive effects. Research has demonstrated that permitting frequent phone calls between incarcerated individuals and their family members increases safety within prisons, promotes better mental health

outcomes for incarcerated individuals and easier reintegration upon their release, and profoundly benefits the family members and children of incarcerated individuals to maintain connections with their loved ones.¹⁰ For instance, studies have shown that allowing incarcerated parents to stay in closer contact with their children led to those inmates displaying better behavior in prison, thereby increasing prison safety.¹¹ Indeed, one study showed a 20 percent decrease in violent incidents in prisons when incarcerated individuals were allowed frequent contact with family.¹²

These benefits extend far beyond prison walls. Studies have shown that incarcerated individuals who have been able to maintain stronger connections with their family on the outside through frequent communication are 25 percent less likely to reoffend within the first five years of their release.¹³ Preventing recidivism eases the burden on jails and prisons, and by extension, the burden on taxpayers and society at large. The Council of State Governments has estimated that states “will collectively spend an estimated \$8 billion to reincarcerate people who were released from prison in 2022.”¹⁴ As the FCC itself previously acknowledged, “regular contact with family” is linked “with lowering rates of recidivism and increasing likelihood of successful reentry into society after release.”¹⁵

¹⁰ See Nicole Loonstyn & Alice Galley, *Low-Cost Phone Calls Benefit Incarcerated People, Their Families, and Criminal Legal Institutions* URBAN INSTITUTE (Aug. 30, 2023) <https://www.urban.org/urban-wire/low-cost-phone-calls-benefit-incarcerated-people-their-families-and-criminal-legal>

¹¹ See *id.*; see also Ann Marie Rocheleau, *Ways of Coping and Involvement in Prison Violence* 59(4) INT’L J. OF OFFENDER THERAPY & COMPARATIVE CRIMINOLOGY 359 (2013) (“Prisoners who received or made calls to their children were less likely, however, to engage in rule violation and specifically violence”).

¹² See James Causey, *The Health Divide: Free phone calls for the incarcerated improve their mental health. So why are costs exorbitant?* USC Annenberg Center for Health Journalism (Aug. 21, 2023), <https://centerforhealthjournalism.org/our-work/insights/health-divide-free-phone-calls-incarcerated-improve-their-mental-health-so-why>

¹³ See Nicole Loonstyn, et al., *supra* at *2 (citing Rebecca L. Naser and Christy A. Visher, *Family Members’ Experiences with Incarceration and Reentry*, 7(2) WESTERN CRIMINOLOGY REVIEW 18–29 (2006)).

¹⁴ See The Council of State Gov’ts Just. Ctr., 50 States, 1 Goal: Examining State-Level Recidivism Trends in the Second Chance Act Era 5 (Apr. 2024), <https://tinyurl.com/n6j83vb9>

¹⁵ See 2024 IPCS Order, 39 FCC Rcd at 7665, ¶ 29.

Moreover, maintaining stronger relationships with their incarcerated parents through frequent phone and video contact also helps children in being more resilient and productive members of society, thereby decreasing burdens on public institutions. Studies have documented the many ways in which a parent's incarceration can jeopardize a child's emotional, physical, educational, and financial well-being.¹⁶ Children of incarcerated parents have emphasized that maintaining a strong and close relationship with their incarcerated parents contributed to their success in later life.¹⁷ The challenges faced by children of incarcerated parents can be meaningfully mitigated by more frequent and easier contact with their parents via lower cost phone and video communication, which increases parental attachment.¹⁸

Perhaps most obviously, lowering the cost of communicating with incarcerated individuals helps ease the financial burden on family members who must pay the exorbitant costs of phone and video communication. The high cost of staying in touch with incarcerated family members led to more than one in three families going into debt to pay for phone calls and

¹⁶ See Amy B. Cyphert, *Prisoners of Fate: The Challenges of Creating Change for Children of Incarcerated Parents*, 77 Md. L. Rev. 385, 390 (2018); Eric Martin *Hidden Consequences: The Impact of Incarceration on Dependent Children* 278 NAT'L INST. OF JUSTICE J. (March 1, 2017) <https://nij.ojp.gov/topics/articles/hidden-consequences-impact-incarceration-dependent-children>; Rachel Ann Tee-Melegrito *Childhood antisocial behavior: Causes and examples* MEDICAL NEWS TODAY (May 31, 2022), available at: <https://www.medicalnewstoday.com/articles/child-antisocial-behavior#overview>; PEW Charitable Trusts, *Collateral Costs: Incarceration's Effect on Economic Mobility* (Washington, DC: PEW Charitable Trusts, 2010).

¹⁷ See Muhammad B.M., Britany Gatewood, & S. Turner, *Children of Incarcerated Parents: Pathways to Resilience & Success Research Report* Prepared for Thurgood Marshall College Fund, Center for Advancing Opportunity (Jan. 2021) at *14, *16, *22 (reporting 83% of study participants had contact with their incarcerated parent and that close relationships were beneficial to their success in numerous other areas of their life, including their education, employment, and adult relationships).

¹⁸ See Amy B. Cyphert, *supra*, at 395; Nicole Loonstyn, et al., *supra* at *2; Megan Pfeiffer, *Evidence-Based and Promising Programs and Practices to Support Parents Who Are Incarcerated and Their Children and Families* JUSTICE CENTER: THE COUNCIL OF STATE GOVERNMENTS (May 2024), available at: https://csgjusticecenter.org/wp-content/uploads/2024/05/Evidence-Based-and-Promising-Programs-and-Practices_508.pdf; Danielle L. Haverkate & Kevin A. Wright, *The differential effects of prison contact on parent-child relationship quality and child behavioral changes* 26 POL'Y, PRAC. & RSCH. (2020); Julie Poehlmann et al., *Children's Contact With Their Incarcerated Parents* 7 AM. PSYCH. 31-35 (Sept. 2010).

visits.¹⁹ One report found that women disproportionately bear this burden and account for more than 80 percent of family members that pay for such communication.²⁰ Moreover, two in three families with incarcerated family members reported having trouble meeting basic needs, such as food and housing, because of the financial costs associated with having an incarcerated family member.²¹ Lowering the cost of communication eases that substantial financial burden on these consumers, which has profound consequences for nearly every aspect of their daily lives.

B. States That Have Transitioned to Free or Low-Cost Calls for Incarcerated Individuals Have Seen Important Benefits without Suffering Costs to Prison Security or Availability of Services.

The experiences of states that have made phone calls free or established rate-caps for the incarcerated population demonstrates that doing so is feasible on a faster timeline than the Bureau's Suspension Order contemplates. Five states—Massachusetts, Connecticut, California, Minnesota and Colorado— have already made prison phone calls free statewide.²² Numerous other states have set rates below the proposed caps in the 2024 IPCS Order.²³ These states have seen significant benefits from the elimination or reduction of expensive charges for communicating with incarcerated family members, including safety benefits like curtailing illicit

¹⁹ See Saneta deVuono-powell, Chris Schweidler, Alicia Walters, and Azadeh Zohrabi, *Who Pays? The True Cost of Incarceration on Families* ELLA BAKER CENTER, FORWARD TOGETHER, RESEARCH ACTION DESIGN, at *9 (2015), <https://ellabakercenter.org/wp-content/uploads/2022/09/Who-Pays-FINAL.pdf>

²⁰ *Id.*

²¹ *Id.* at *7.

²² See *Gov. Healey and Mass. Legislature Put Families Over Prison Profiteering with Free Phone Calls for Incarcerated People* NAT'L CONSUMER LAW CENTER PRESS RELEASE (Nov. 20, 2023), available at: <https://www.nclc.org/gov-healey-and-mass-legislature-put-families-over-prison-profiteering-with-free-phone-calls-for-incarcerated-people/>; Sarah Betancourt, *Massachusetts becomes fifth state in nation to make prison calls free* WGBH (Nov. 20, 2023), available at: <https://www.wgbh.org/news/local/2023-11-17/massachusetts-becomes-fifth-state-in-nation-to-make-prison-calls-free>

²³ These states include: Nebraska, Texas, Wisconsin, Pennsylvania, South Carolina, Ohio, Missouri, Alabama, New Jersey, New York, Virginia, Florida, Mississippi, Delaware, Vermont, Maryland, West Virginia, Rhode Island, New Hampshire, and Illinois. See Letter from Bianca Tylek, Exec. Dir., Worth Rises, to Marlene H. Dortch, Sec'y, Fed. Comm'ns Comm'n (Nov. 23, 2020).

cell phone use and keeping incarcerated individuals involved in their families and communities, leading to better support structures upon release.²⁴ As the FCC itself has recognized, the experience of states that have already passed laws reducing IPCS rates demonstrates that rates can be affordable “without jeopardizing the security needs of correctional facilities and law enforcement or the quality of service.”²⁵

For example, when Massachusetts implemented no-cost communications, calls more than doubled in the state prison system, during the first 11 months of the new program, compared to the previous year.²⁶ This substantial increase in communication demonstrates the artificial suppression that cost barriers had previously imposed on essential family connections.

The Massachusetts Department of Correction responded proactively to the increased demand with significant infrastructure improvements, including:

- Installation of 301 new wall phones throughout state facilities;
- Deployment of phone applications on 192 existing kiosks; and
- Enhanced network infrastructure to support the increased call volume.²⁷

In a further expansion of communication access, Massachusetts issued personal tablets to incarcerated individuals in the state correctional system that enable them to make phone calls and

²⁴ See, e.g., Rates for Interstate Inmate Calling Services, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd. 14107, 14110 ¶ 4 (2013) (commending states for “show[ing] that rates can be reduced to reasonable, affordable levels without jeopardizing [] security needs”); Letter from Anthony Annucci, Acting Commissioner, N.Y. Dept. of *14 Corr. & Comm. Supervision, to Gregory Haledjian, Attorney-Advisor, FCC, WC Docket No. 12-375 at 1 (filed July 16, 2013) (noting that lower rates in New York correctional facilities led to more inmates making telephone calls, “helped contribute to family reunification,” and curbed “illicit cell phone use by inmates.”); 2015 Order, 30 FCC Rcd. at 12766-75 ¶¶ 2, 19, 22 (describing Minnesota’s success in negotiating rates down to 5 cents per minutes without sacrificing security).

²⁵ See Rates for Interstate Inmate Calling Services, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd. 14107, 14110 (released Sept. 26, 2013).

²⁶ See Sarah Betancourt, *Massachusetts prison and jail calls doubled in first year of free calls* WGBH (Dec. 4, 2024) <https://www.wgbh.org/news/local/2024-12-04/massachusetts-prison-and-jail-calls-doubled-in-first-year-of-free-calls>

²⁷ See Letter From DOC Commissioner to Members of Joint Committee on the Judiciary (Jan. 16, 2024).

that can also be used for educational purposes such as trade certifications and job skill training, which provide additional rehabilitative benefits.²⁸

Contrary to the parade of horrors predicted in certain opposition Comments,²⁹ Massachusetts has also demonstrated that free calls for end users can be fiscally sustainable without sacrificing safety. Rather than shift costs directly from families to correctional institutions, the state DOC leveraged its bargaining power to reduce the underlying rates by 33 percent, bringing costs down to 7.9 cents per minute.³⁰ This reduction itself suggests that previous pricing structures contained markups unnecessary for service provision or security. Lawmakers and advocates expect that the Commonwealth will continue to use its bargaining power to negotiate a new contract that will further reduce rates across all Massachusetts correctional facilities.³¹

Furthermore, the Massachusetts Department of Corrections has hailed the no-cost calls reform as “essential to advancing rehabilitation, reducing recidivism, and strengthening community safety.”³² Promoting community safety does not need to compromise facility security. Calls remain subject to the Department of Correction’s Telephone Access and Use Policy, which provides for the monitoring of calls and blocking of numbers to maintain

²⁸ See *supra*, n. 26, Sarah Betancourt, *Massachusetts prison and jail calls doubled in first year of free calls*; Press Release: Massachusetts Dept of Correction Complete Implementation of Tablet Initiative to Enhance Educational Programming for Incarcerated Population (June 13, 2024), <https://www.mass.gov/news/massachusetts-department-of-correction-completes-implementation-of-tablet-initiative-to-enhance-educational-programming-for-incarcerated-population>

²⁹ See State of Louisiana et al., Opposition to Application for Review of DA 25-565 (Aug. 29, 2025).

³⁰ See *Correctional Contracts Library*, Prison Policy Initiative, <https://www.prisonpolicy.org/contracts/documents.html> (stating rate effective on December 1, 2023 in “ma_doc_amendment10.pdf”).

³¹ See *supra*, n. 26, Sarah Betancourt, *Massachusetts prison and jail calls doubled in first year of free calls* (noting that at least one sheriff pays as little as \$.02 per minute and other states pay less, suggesting that rates can continue to be renegotiated lower).

³² Massachusetts Department of Corrections, *No Cost Phone Calls Implementation Frequently Asked Questions*, <https://www.mass.gov/doc/no-cost-calling-faq/download>

security.³³ Moreover, other states have noted another security benefit: easier and less expensive communication through official, monitored channels curbs illicit cellphone use within correctional facilities.³⁴

The experience in Massachusetts, California, Illinois, Maryland, Minnesota, New Jersey, New York, Rhode Island, and numerous other states that have implemented free or lower-cost phone calls for incarcerated persons, makes clear that it is possible to continuously provide communication services to incarcerated individuals and their families at a lowered cost without decreasing or eliminating the service and without compromising safety. Congress has clearly expressed its will that lower rates and reforms must go into effect in a timely manner. The Bureau's flouting of that legal mandate in a manner that is unlawful, arbitrary, and capricious, should be reviewed and reversed.

III. Conclusion

For the foregoing reasons, Massachusetts, California, Illinois, Maryland, Minnesota, New Jersey, New York, and Rhode Island urge you to grant the Public Interest Parties' application for review of the Bureau's Suspension Order.

³³ *Id.*

³⁴ *See supra*, Letter from Anthony Annucci, at 1.

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