

IN THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

FILED
SEP 30 2024
U.S. Court of Appeals
Eighth Circuit

STATES OF INDIANA, ARKANSAS,
ALABAMA, FLORIDA, GEORGIA,
IDAHO, IOWA, MISSOURI, OHIO,
SOUTH CAROLINA, SOUTH
DAKOTA, TENNESSEE, UTAH, AND
VIRGINIA,

Petitioners,

v.

FEDERAL COMMUNICATIONS
COMMISSION and UNITED STATES
OF AMERICA,

Respondents.

Case No. 24-

PETITION FOR REVIEW

Pursuant to 5 U.S.C. §§ 702-704, 706, 47 U.S.C. § 402(a), 28 U.S.C. §§ 2342(1) and 2344, and Rule 15(a) of the Federal Rules of Appellate Procedure, the States of Indiana, Arkansas, Alabama, Florida, Georgia, Idaho, Iowa, Missouri, Ohio, South Carolina, South Dakota, Tennessee, Utah, and Virginia hereby petition this Court for review of final rules promulgated in an order of the Federal Communications Commission (“Commission”). *See* Report and Order, Order on Reconsideration, Clarification and Waiver, and Further Notice of Proposed Rulemaking, *Incarcerated People’s Communication Services; Implementation of the Martha Wright-Reed Act: Rates for Interstate Inmate Calling Services*, WC Docket Nos 23-62 & 12-375, FCC

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24-75 (rel. July 22, 2024) (“*Order*”) (Ex. A) (incorporating August 26, 2024, Erratum to *Order*).

The *Order* establishes per-minute rate caps for intrastate audio and video communication services provided to incarcerated people, establishes per-minute rate caps for interstate video communication services, and lowers existing interstate per-minute rate caps for audio communication services. *Order* ¶¶ 3-4. The *Order* also prohibits providers of these communication services (“IPCS providers”) from collecting separate charges for ancillary services, prohibits IPCS providers from making site commission payments to carceral facilities, and preempts state laws requiring such commissions. *Id.*

This Court has jurisdiction pursuant to 47 U.S.C. § 402(a) and 28 U.S.C. § 2342(1). This petition is timely filed within 60 days of the publication of the *Order*’s final rules in the Federal Register on September 20, 2024. *See* 28 U.S.C. § 2344; *see* Incarcerated People’s Communications Services, 89 Fed. Red. 77,244 (Sept. 20, 2024). The State of Arkansas, State of Missouri, State of Iowa, and State of South Dakota reside in the Eighth Circuit. Venue is therefore proper in this Court under 28 U.S.C. § 2343.

The States of Indiana, Arkansas, Alabama, Florida, Georgia, Idaho, Iowa, Missouri, Ohio, South Carolina, South Dakota, Tennessee, Utah, and Virginia seek relief on the grounds that the *Order* is arbitrary, capricious, and an abuse of discretion within the meaning of the Administrative Procedure Act, is in excess of statutory authority, is not supported by substantial evidence, and is otherwise

contrary to law. This Court should grant the petition; hold unlawful, vacate, enjoin, and set aside the challenged portions of the *Order*, and grant such additional relief as may be necessary and appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. Participants in this case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document by First-Class mail, postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days, to the following non-CM/ECF participants:

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