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2007 NOV 27 A 10:55

November 26, 2007

**VIA OVERNIGHT DELIVERY**

Mr. Joel H. Peck, Clerk
Virginia State Corporation Commission
Document Control Center
Tyler Building, First Floor
1300 East Main Street
Richmond, Virginia 23219

**Re: Petition of Intrado Communications of Virginia Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, to Establish an Interconnection Agreement with Central Telephone Company of Virginia and United Telephone - Southeast, Inc. (collectively, "Embarq")**

Dear Mr. Peck: PUC-2007-00112

Intrado Communications of Virginia Inc. ("Intrado"), by its attorneys, hereby submits an original and six (6) copies of its Petition for Arbitration to establish an interconnection agreement with Central Telephone Company of Virginia and United Telephone - Southeast, Inc. (collectively, "Embarq") for the state of Virginia.

Please date stamp the additional copy of the Petition and return it in the enclosed Federal Express envelope. If you have any questions concerning this filing, please contact the undersigned.

Respectfully submitted,

Rebecca R. Geller

Rebecca R. Geller
Counsel for Intrado Communications of Virginia Inc.

Enclosures
cc: Kathryn Feeney, Embarq
William Watkins, Embarq
Rebecca Ballesteros, Intrado



**Admitted to practice in Virginia only. Practicing under the supervision and guidance of Members in the Washington, D.C. Office of Mintz Levin.*

4197929v.1

**Before the**
**STATE OF VIRGINIA**
**STATE CORPORATION COMMISSION**

| | | |
|---|---|---|
| In the Matter of the Petition<br>of Intrado Communications of Virginia Inc. for Arbitration<br>Pursuant to Section 252(b) of the Communications Act<br>of 1934, as amended, to Establish an Interconnection<br>Agreement with Central Telephone Company of Virginia<br>and United Telephone - Southeast, Inc.<br>(collectively, "Embarq") | )<br>)<br>)<br>)<br>)<br>)<br>)<br>) | CASE No. _____ |

# PETITION FOR ARBITRATION


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Dated: November 27, 2007

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**Before the**
**STATE OF VIRGINIA**
**STATE CORPORATION COMMISSION**

| | | |
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| In the Matter of the Petition of Intrado Communications of Virginia Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, to Establish an Interconnection Agreement with Central Telephone Company of Virginia and United Telephone - Southeast, Inc. (collectively, "Embarq") | ) | CASE No. _____ |

## PETITION FOR ARBITRATION

Intrado Communications of Virginia Inc. ("Intrado"), through its attorneys, hereby petitions the Virginia State Corporation Commission ("Commission") for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with Central Telephone Company of Virginia and United Telephone - Southeast, Inc. (collectively, "Embarq") pursuant to Section 252(b) of the Communications Act of 1934, as amended ("Act") and 20 V.A.C. § 5-419-10.[1/]

## INTRODUCTION AND OVERVIEW

Historically, incumbent local exchange carriers ("ILECs"), such as Embarq, have been tasked with implementing, operating, and maintaining the 911 network in the United States. Public safety answering points ("PSAPs"), competitive local exchange carriers ("CLECs"), wireless providers, and other types of service providers must rely on the ILEC to provide the necessary inputs to support emergency calls. Consistent with the goals of this Commission and Congress to promote competition in all segments of the communications market generally and

[1/] 47 U.S.C. § 252(b); 20 V.A.C. § 5-419-10.

reliability and redundancy in the 911 network specifically, Intrado now seeks to offer a competitive alternative to the ILEC 911 network. To do so, however, Intrado requires interconnection with ILECs such as Embarq to ensure that the customers of each carrier can seamlessly complete or receive life-saving emergency calls. Indeed, a critical component of providing such services as a facilities-based carrier is a mutually beneficial interconnection agreement with the ILEC. The interconnection agreement is the underpinning of the business relationship between Intrado and Embarq, and is necessary to ensure end users receive seamless service that is of the highest quality.

The services Intrado seeks to offer are not new or novel. Many years ago, the Federal Communications Commission ("FCC") determined that outages affecting 911 facilities are especially significant because of the risks to public safety and encouraged the use of diversity to avoid single points of vulnerability within a 911 system.[2/] PSAPs likewise have been working with non-ILEC service providers since the passage of the Telecommunications Act in 1996 and the FCC's mandate that wireless carriers provide E911 services to their customers.[3/] And for more than two years now, the FCC has recognized that 911/E911 services may be provided by means other than interconnection with the ILEC based on its finding that Voice over Internet Protocol ("VoIP) service providers may satisfy their E911 requirements by utilizing a CLEC like Intrado.[4/] Importantly, the FCC also recognized that compliance with its requirements would require all interested parties to work together to develop and deploy E911 solutions and

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[2/] *See, e.g., Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions*, 10 FCC Rcd 11764, ¶ 7, n.32 (1995).

[3/] *See, e.g., Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 11 FCC Rcd 18676 (1996) (adopting rules governing the provision of E911 service by wireless carriers).

[4/] *E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, ¶ 38 (2005) ("*VoIP E911 Order*").

specifically acknowledged that compliance would be "necessarily dependent" on access to trunks and Selective Routers through CLECs that have negotiated access with ILECs.[5]

Through its interconnection agreement with Embarq, Intrado is attempting to provide the types of innovative solutions contemplated by the FCC and desperately desired by public safety agencies, VoIP service providers, and other communications providers. The benefits of Intrado's competitive 911 offering have already been recognized by other states.[6] Embarq, however, appears unwilling or unable to understand the significant value Intrado's competitive services can bring to the public safety agencies operating in Virginia as well as the residents of the state. Intrado is poised to offer an alternative, IP-based technology that will "enable the public safety community to focus on future needs rather than requiring more from legacy systems, offer more redundancy and flexibility, and contribute greatly to improving compatibility between public safety systems that operate using different proprietary standards."[7] Accordingly, Intrado is eager to reach agreement with Embarq so that Intrado can begin offering its services to PSAPs as well as the end users of wireline, wireless, VoIP, and telematics service providers in Virginia.

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[5] *VoIP E911 Order* ¶ 40.

[6] *See, e.g.*, Case No. 04-0102-T-GI, *Frontier Communications of West Virginia, et al. General Investigation into the Provision of Data Base Management Services and into Who Pays the Costs of Such Services*, Commission Order (W.Va. P.S.C. Nov. 20, 2007) (recognizing "competitive entry by other providers of E911 services" will "provide more purchasing options to PSAPs").

[7] *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, 22 FCC Rcd 10541, ¶¶ 74-75, 80-82 (2007).

## BACKGROUND

Intrado has authority to operate as a competitive local exchange telecommunications provider in Virginia.[8/] Intrado and its affiliates also hold authority to provide competitive local telecommunications services in thirty-seven other states and have entered into numerous other interconnection agreements with other ILECs, such as Qwest and SBC (now known as AT&T). Intrado Inc., the parent company of Intrado, was founded in 1979. The companies combined are the nation's leading providers of sophisticated solutions that identify, manage, and deliver mission critical information for telecommunications providers and public safety organizations. Intrado provides telecommunications services that facilitate, enhance, and advance the provision of emergency services throughout the United States to end users such as public safety agencies or governmental 911 authorities, VoIP service providers, and other wireline, wireless, and telematics (*e.g.*, On Star) service providers.

Specifically, Intrado provides routing, transmission and transport of traditional and non-traditional emergency call traffic to the appropriate PSAP. In addition, by aggregating emergency call traffic, Intrado's services reduce the number of facilities that must interconnect with ILEC Selective Routers, resulting in a more efficient use of the telecommunications network. In geographic areas where Intrado serves as the primary service provider of 911 and E911 services, the ILEC need only coordinate and interconnect with Intrado, reducing the ILEC's administrative responsibilities because the ILEC will not be required to coordinate and interconnect with other carriers to handle their 911/E911 calls. In addition, Intrado offers its end

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[8/] Case No. PUC010212, *Application of Intrado Communications of Virginia Inc. for Certificates of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Services*, Final Order (Va. S.C.C. Mar. 20, 2002) (granting Intrado Certificate of Public Convenience and Necessity No. T-578).

users and the interconnecting ILEC assurance that emergency call traffic will be passed to the ILEC's network through redundant, self-healing facilities provided by Intrado.[9/]

Not only will Intrado provide efficient and reliable transport of emergency call traffic, but Intrado also offers state-of-the-art database management services. These database management services provide enhanced Automatic Number Identification ("ANI") and Automatic Location Identification ("ALI") services to end users of wireline, wireless, VoIP, and telematics service providers. Such advanced services allow PSAPs to provide quicker and more accurate emergency services, saving innumerable lives. The Intrado product provides an enhanced E911 product for users or emergency services and providers of emergency response systems.

In order to provide the aforementioned aggregation, transport, and database management services, Intrado must interconnect its network with the ILECs that have connections with and provide 911 services to the PSAPs. Thus, pursuant to the Act, Intrado seeks to interconnect its network with Embarq's network. Intrado is eager to reach agreement with Embarq so that Intrado can begin offering its services to further benefit Virginia consumers and public safety agencies.

The Act requires Embarq, as an ILEC, to negotiate in good faith the terms and conditions of interconnection agreements to fulfill its obligations under the Act.[10/] To date, the Parties have been unable to reach a comprehensive negotiated agreement as contemplated by Section 252 of

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[9/] As the primary 911 and E911 provider, Intrado routes, transmits, and transports 911 and emergency call traffic from end users of wireline, wireless, VoIP, and telematics service providers to the appropriate PSAP. The PSAP may be Intrado's end user or it may be Embarq's or another third-party carrier's end user. The method of transmission of the 911 and emergency call traffic to Intrado's network is transparent to the PSAP. All necessary conversion functions and special applications necessary to transport calls and information from wireless and telematics end users calling 911 or requesting emergency assistance are made within Intrado's network. The PSAP that receives a 911 call from a wireless, telematics, or VoIP service provider end user will be able to process such calls in a manner no different than currently used to process such 911 calls.

[10/] 47 U.S.C. § 251(c)(1).

the Act. Once a CLEC submits a request for interconnection, Section 252(b) permits either party to the negotiation to petition a state commission to "arbitrate any open issues" unresolved by voluntary negotiations.[11/] As Intrado and Embarq have not reached a voluntary negotiated agreement, Intrado hereby files this Petition.

In accordance with Section 252(b)(2) of the Act and applicable Virginia statutes and rules, Intrado provides "all relevant documentation concerning - (i) the unresolved issues; (ii) the position of each of the parties with respect to those issues; and (iii) any other issue discussed and resolved by the parties."[12/] All relevant documents are affixed as Attachments 1 through 12. The remainder of the Petition will detail the unresolved issues identified by the Parties during negotiations, and Intrado's and Embarq's positions on each issue.[13/] With the Commission's assistance, Intrado hopes to secure prompt resolution of the outstanding issues set forth herein.

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[11/] 47 U.S.C. § 252(b)(1). Pursuant to that provision, either party may petition the State commission for arbitration during the period from the 135th day to the 160th day (inclusive) after the date on which the incumbent carrier received the request for negotiation. Pursuant to mutual agreement of the Parties, the 160th day is November 28, 2007. *See* Letter from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 11, 2007) (Attachment 2).

[12/] 47 U.S.C. § 252(b)(2)(A).

[13/] 47 U.S.C. § 252(b)(2).

## RESOLVED ISSUES LIST

The Parties have reached agreement on a few issues and are continuing to work toward a negotiated agreement. The Parties have resolved the following issues in connection with their agreement:

Section 10.4 - Limitation of Liability
Section 12.6 - Insurance
Section 12.8 - Insurance

## UNRESOLVED ISSUES LIST

The issues that remain open and require resolution generally fall into the following categories:

**I. INTRADO IS ENTITLED TO SECTION 251(C) INTERCONNECTION AND SECTION 252 ARBITRATION**

**II. PHYSICAL ARCHITECTURE**

- **A.** Local Interconnection Arrangements (Section 55.1)
- **B.** Interconnection of Embarq Network to Intrado Network, Technical Requirements for Interconnection, Point of Interconnection and Mid-Span Meet (Sections 55.2, 55.3, 55.4, 80.1)
- **C.** Inter-Selective Router Trunking (Section 55.5)
- **D.** Indirect Traffic (Section 60)

**III. 911 AND E911 SERVICE AND RELATED SERVICES**

- **A.** Intrado's Right to 911 and E911 Services from Embarq (Section 75.1)
- **B.** Basic 911 and E911 Service (Sections 74.15, 75.2.3-75.2.5)
- **C.** Basic 911 and E911 Databases (Sections 75.2.6)
- **D.** MSAG and SIG (Sections 1.76, 1.111, 72.3)
- **E.** 911 and E911 Related Definitions (Sections 1.9, 1.46, 1.50, 1.55, 1.81, 1.96, 1.100, 1.101, 1.014, 1.106, 1.108)

**IV. INTERCARRIER COMPENSATION (SECTION 56.11)**

**V. LEGAL AND FINANCIAL OBLIGATIONS**

- **A.** Term and Termination (Sections 5.1, 5.3, 5.5, 96.1)
- **B.** Post-Expiration Interim Service Arrangements (Sections 6.2, 6.3.2)
- **C.** Billing and Payment of Intrado Charges and Dispute Resolution (Sections 7.1-7.10, 25.3)
- **D.** Audits (Section 8.1)
- **E.** Intellectual Property (Sections 9.2, 9.5, 9.6)
- **F.** Limitation of Liability (Section 10.2)
- **G.** Indemnification (Section 11.7, 11.9-11.13, 93)
- **H.** Insurance (Sections 12.7, 12.9)
- **I.** Modification of Parties' Networks (Section 54)
- **J.** Forecasting (Sections 58.3, 58.6, 58.7)
- **K.** Ordering Processes (Section 72.14)

**VI. PRICING AND OTHER ATTACHMENTS (TABLE ONE, TABLE TWO, EXHIBIT A)**

## VII. DEFINITIONS

- **A.** Definition of "Central Office Switch" and "Tandem Office Switch" (Sections 1.19, 1.114)
- **B.** Definition of "Common Transport" (Section 1.28)
- **C.** Definition of "End-User" (Section 1.54)
- **D.** Definition for "Internet Protocol" and "Voice over Internet Protocol" (Sections 1.68, 1.127)
- **E.** Definition of "Technically Feasible" (Section 1.116)

## VIII. MISCELLANEOUS

- **A.** Cover Page and Whereas Clauses (Cover page and Whereas Clauses)
- **B.** Call-Related Databases (Section 69.1)
- **C.** Brokers and Agents (Section 98.1)
- **D.** Capitalization and Consistency of Definitions (Various Sections)

## FACTUAL BACKGROUND

On May 18, 2007, Intrado made a request in writing to Embarq for negotiation of an interconnection agreement for the state of Virginia.[14/] In response, Embarq forwarded to Intrado its standard, "one size fits all," multi-state template agreement on May 21, 2007 ("Embarq May 21 Draft").[15/] After several email exchanges, the Parties scheduled an initial "meet & greet" negotiation call for September 18, 2007. Prior to the September 18 call and during the call itself, Intrado provided Embarq's subject matter experts ("SMEs") with an overview of Intrado's network architecture and its interconnection needs.[16/] Each of Embarq's SMEs implied an understanding of Intrado's needs after the call.

On September 23, 2007, Intrado provided Embarq with an initial mark-up of the template agreement ("Intrado September 23 Draft"), which included proposed revisions to the critical pieces of the template - the physical architecture and interconnection sections - which were revised consistent with the joint discussions held on the September 18 conference call.[17/] Intrado later contacted Embarq to discuss next steps and how soon Intrado could expect a response to its proposed revisions. In response, Embarq requested a 30-day extension of the arbitration window[18/] and the Parties agreed to extend the arbitration deadline to November 28, 2007, the relevant date for this Petition.[19/]

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[14/] Letter from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (May 18, 2007) (Attachment 3).

[15/] Email from Kathryn Feeney, Embarq, to Colleen Lockett, Intrado (May 21, 2007), *attaching* Embarq template interconnection agreement ("Embarq May 21 Draft") (Attachment 4).

[16/] Email from Rebecca Ballesteros, Intrado, to Kathryn Feeney, Embarq (Sept. 4, 2007), *attaching* Intrado network diagram, and subsequent email correspondence (Sept. 10 and Sept. 11, 2007) (collectively, Attachment 5).

[17/] Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Sept. 23, 2007), *attaching* Intrado September 23 Draft (Attachment 6).

[18/] Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 3, 2007) (Attachment 7).

[19/] Letter from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 11, 2007) (Attachment 2).

On October 8, 2007, Intrado provided Embarq with additional revisions to the General Terms and Conditions section of the template agreement ("Intrado October 8 Draft").[20/] Embarq responded to some, but not all, of those proposed revisions on October 10, 2007, and the Parties were able to reach resolution on a handful of issues relating to the General Terms and Conditions section of the interconnection agreement.[21/]

Embarq, however, has never formally responded to the Intrado September 23 Draft or the Intrado October 8 Draft. After repeated phone calls and email messages to determine the status of Embarq's response to Intrado's proposed revisions,[22/] Intrado received correspondence from Embarq on November 1, 2007 setting forth Embarq's position that some parts of Intrado's interconnection request were governed by Section 251(a) of the Act, but did not fall under Section 251(c)(2) and were therefore not eligible for arbitration under Section 252.[23/] The Parties, however, did agree to conduct further discussions during a November 9, 2007 conference call.[24/] During the November 9 conference call, Embarq re-stated its position that it does not believe Intrado is entitled to Section 251(c) interconnection because the services provided by Intrado are not telephone exchange or exchange access services. Embarq also indicated that Intrado is not entitled to interconnection because Intrado does not serve retail end users.

As discussed above, numerous issues between the Parties remain unresolved. Embarq's appears unwilling to negotiate with Intrado based on Embarq's incorrect view that Intrado is not

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[20/] Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 8, 2007), *attaching* Intrado October 8 Draft (Attachment 8).

[21/] Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 10, 2007); Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 10, 2007) (collectively, Attachment 9).

[22/] Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 24, 2007); Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 24, 2007) (collectively, Attachment 10).

[23/] Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Nov. 1, 2007); Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Nov. 1, 2007) (collectively, Attachment 11).

[24/] Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Nov. 1, 2007) (Attachment 12).

entitled to Section 251(c) interconnection or Section 252 arbitration. Regrettably, resolution of the outstanding issues does not appear possible at this stage without Commission intervention. Thus, Intrado respectfully requests that the Commission consider Intrado's requests contained herein and resolve the outstanding issues in this arbitration according to the standards outlined by the Act and consistent with Intrado's stated positions and its proposed language as set forth in Attachment 1 ("Intrado Proposed Interconnection Agreement").[25/]

[25/] Section 252(b)(2)(A)(i) of the Act requires that all unresolved issues be identified by the petitioner. In an effort to ensure all of Intrado's issues with the Embarq interconnection agreement were sufficiently identified, Intrado has further revised the Embarq agreement beyond the revisions provided to Embarq through Intrado's September 23 and October 8 Drafts. Attachment 1 reflects Intrado's most recent mark-up of the Embarq May 21 Draft. Embarq is receiving this further revised draft for the first time as an attachment to this Petition. In addition, because Embarq has not provided pricing information to Intrado as it is required to do, Tables One and Two are blank, which prevents Intrado from submitting a complete Intrado Proposed Interconnection Agreement. Finally, Embarq has not provided Intrado with the wire center information that should be included in Exhibit A. Both the missing pricing and wire center information have been identified as issues.

## UNRESOLVED ISSUES

### I. INTRADO IS ENTITLED TO SECTION 251(C) INTERCONNECTION AND SECTION 252 ARBITRATION

Intrado is certified by this Commission (and numerous other state commissions) to offer competitive local exchange services.[26/] Standing alone, this certificate of authority is sufficient statutory basis to require Embarq to negotiate and interconnect with Intrado. Notwithstanding that fact, Embarq claims that Intrado is not entitled to interconnection under Section 251(c) of the Act because (1) the services provided by Intrado are not telephone exchange service or exchange access service and (2) Intrado does not provide service to retail end user customers. Instead, Embarq contends that parts of Intrado's request fall under Section 251(a) of the Act and therefore arbitration under Section 252 is not applicable. Embarq is wrong.

Intrado is a telecommunications carrier offering telephone exchange, exchange access, and telecommunications service as those terms are defined in the Act and by the FCC's rules. In 2000, similar claims were raised by AT&T (then SBC) in response to Intrado's (then known as SCC Communications) request for interconnection in California and Illinois. Both the California Public Utilities Commission and the Illinois Commerce Commission rejected AT&T's attempts to block competition with such claims and found Intrado was entitled to interconnection under Section 251(c) and arbitration under Section 252 because it was acting as a telecommunications

[26/] Case No. PUC010212, *Application of Intrado Communications of Virginia Inc. for Certificates of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Services*, Final Order (Va. S.C.C. Mar. 20, 2002) (granting Intrado Certificate of Public Convenience and Necessity No. T-578).

carrier and provided telephone exchange service, exchange access, and telecommunications services.[27] The Commission should make a similar finding here.

### A. Intrado is a Telecommunications Carrier Offering Telephone Exchange Service, Exchange Access, and Telecommunications Services

**Issue Presented**

Whether Embarq may deny Intrado its rights under Sections 251(c) and 252 by claiming that Intrado (1) does not offer telephone exchange service or exchange access and (2) does not serve retail end users.

**Intrado Position**

Section 251(c) of the Act requires an ILEC, such as Embarq, to provide interconnection with a requesting telecommunications carrier[28] "for the transmission and routing of telephone exchange service and exchange access."[29] Intrado offers telecommunications because it accepts, routes, transmits, transports and/or aggregates 911 calls from its end user customers, and routes those calls to the appropriate PSAP[30] "without change in the form or content of the information

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[27] *See generally* Docket No. 00-0769, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, Arbitration Decision (I.C.C. Mar. 21, 2001) ("*Illinois Order*"); Decision No. 01-09-048, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, , Opinion Affirming Final Arbitrator's Report and Approving Interconnection Agreement (C.P.U.C. Sept. 20, 2001) ("*California Order*").

[28] 47 U.S.C. § 153(44) (defining "telecommunications carrier" to mean "any provider of telecommunications services"); *see also* 47 U.S.C. § 153(46) (defining "telecommunications service" as the "offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used"). Telecommunications is "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. § 153(43).

[29] 47 U.S.C. § 251(c)(2)(A).

[30] In many instances, the PSAP will also be Intrado's customer or end user. The fact that only a subset of the "public" would purchase Intrado's services (such as PSAPs, local exchange carriers, businesses operating a private branch exchange ("PBX"), VoIP service providers, etc.) does not mean the service is not being offered to the public. *NARUC v. FCC*, 525 F.2d 630, 641 (D.C. Cir. 1975) (holding that a service provider "may be a common carrier though the nature of the service rendered is sufficiently specialized as to be of possible use to only a fraction of the

as sent or received."[31] Intrado uses a call management system to perform the selective routing of an emergency call to the appropriate PSAP, and the FCC has determined that selective routing is a telecommunications service.[32]

Similarly, Intrado offers telephone exchange service and exchange access service as those terms are defined in the Act.[33] The FCC has found that "comparable" services do not need to be "'market substitutes' for two-way switched voice service."[34] Rather, the "key component" of telephone exchange service is "'intercommunication' among subscribers within a local exchange area."[35] Intrado offers "intercommunication among subscribers within a local exchange area" by connecting calls placed by persons in a local exchange area to a relevant PSAP, allowing callers to both communicate to and receive communication from PSAP personnel.[36] Although the majority of the calls placed over Intrado's network are one-way, there is still "intercommunication" because the PSAP can communicate with the caller and vice versa, and one PSAP can communicate and transfer emergency calls to other PSAPs. Indeed, Intrado

total population"); *see also Illinois Order* at 8 (noting that in the Intrado system "a 911 call is routed to a PSAP, which is a subsection of the general public, and whose duty it is to serve the general public at large").

[31] *Cf.* 47 U.S.C. § 153(43) (defining "telecommunications"). Moreover, Intrado services are offered for a fee directly to the public, meaning Intrado offers a telecommunications service as defined in the federal statute.

[32] *Bell Operating Companies Petition for Forbearance from the Application of Section 272 of the Communications Act of 1934, as Amended, to Certain Activities*, 13 FCC Rcd 2627, ¶ 18 (1998).

[33] A service is a "telephone exchange service" if it (A) "furnish[es] . . . subscribers intercommunicating service of the character ordinarily furnished by a single exchange" or (B) "comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service." 47 U.S.C. § 153(47). "Exchange access" is defined as "the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services." 47 U.S.C. § 153(16).

[34] *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd 385, ¶¶ 30-31 (1999) ("*Advanced Telecommunications Order*").

[35] *Advanced Telecommunications Order* ¶¶ 30-31.

[36] *California Order* at 14 ("SCC does provide intercommunication among subscribers, within the meaning of Section 153(47), because by transporting the 9-1-1 call to the appropriate PSAP, SCC enables an end user to talk to someone at the PSAP and vice versa."); *Illinois Order* at 6 ("SCC also provides service within an exchange, or within a connected system of telephones (sic) exchanges, through a system of switches, transmission and equipment, by which, a subscriber can originate and terminate an emergency or 9-1-1 call. SCC therefore falls within the definition of telephone exchange service found in 47 U.S.C. § 153(47).").

provides a greater degree of intercommunication than is available in fax communications, which the FCC has declared to be telephone exchange service.[37]

Further, there is no merit to Embarq's claim that Intrado is not entitled to interconnection because it does not serve retail end users. Telecommunications carriers, such as Intrado, are not required to provide services directly to retail end users in order to qualify for Section 251 interconnection rights. The FCC has repeatedly held that the term "telecommunications services" is not limited to retail services and specifically includes services offered to other carriers and service providers.[38] PSAPs, however, are retail end users that historically have purchased services from ILECs pursuant to ILEC retail tariffs.[39]

There is simply no question that providers like Intrado are eligible for interconnection under Section 251(c) of the Act. The FCC has specifically approved of Intrado's intention to provide interconnection for E911: "Intrado has indicated that it is prepared to operate as a competitive LEC in a number of states to provide indirect interconnection to interconnected VoIP providers [for provision of E911 services]."[40] And other state commissions have recognized that Intrado's interconnection relationships are in the public interest: "Moreover, the public interest requires that [Intrado] be subject to common carrier regulation. [Intrado] provides

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[37] *Advanced Telecommunications Order* ¶ 21.

[38] *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to provide Wholesale Telecommunications Services to VoIP Providers*, 22 FCC Rcd 3513, ¶ 11 (2007) ("It is clear under the Commission's precedent that the definition of 'telecommunications services' is not limited to retail services . . . ."); *Federal-State Board on Universal Service*, 12 FCC Rcd 8776, ¶ 785 (1997) ("Common carrier services include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers.").

[39] *VoIP E911 Order* ¶ 14, n.35.

[40] *VoIP E911 Order* ¶ 38.

9-1-1 and emergency services. It is of the utmost importance that the continuance and quality of a 9-1-1 call be preserved and enhanced."[41]

**Embarq Position**

Embarq incorrectly claims that Intrado is not entitled to interconnection under Section 251(c) of the Act because the services provided by Intrado are not telephone exchange service or exchange access and Intrado does not provide service to retail end user customers. Embarq contends that parts of Intrado's interconnection request are instead covered by Section 251(a). Embarq has not explained to Intrado which parts of Intrado's interconnection request are not eligible for Section 251(c) treatment.

### B. Section 251(c) Interconnection Agreements Can Go Beyond Section 251(c) and the Section 252 Arbitration Process Is Not Limited to Section 251(c) Obligations

**Issue Presented**

Whether Intrado is entitled to arbitration pursuant to Section 252 of the Act.

**Intrado Position**

The negotiation and arbitration process applies to Section 251 agreements with ILECs generally.[42] Any type of interconnection request under Section 251 is subject to arbitration under Section 252. This is consistent with Section 252(a), which permits any party to a

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[41] *Illinois Order* at 8.

[42] *See, e.g.*, Cause No. 43052-INT-01, *Sprint Communications Company L.P.'s Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, and the Applicable State Laws for Rates Terms and Conditions of Interconnection with Ligonier Telephone Company, Inc.*, Opinion (I.U.R.C. Sept. 6, 2006) (agreeing that Section 251(a) issues may be included in a Section 252 arbitration proceeding); Case No. PU-2065-02-465, *Level 3 Communications LLC Interconnection Arbitration Application*, Order (N.D. P.U.C May 30, 2003) (finding the arbitration provisions of Section 252 are available for all Section 251 interconnections, including interconnections under Section 251(a)); Docket No. UT-023043, *Petition for Arbitration of an Interconnection Agreement Between Level 3 Communications, LLC and CenturyTel of Washington, Inc. Pursuant to 47 U.S.C. Section 252*, Seventh Supplemental Order: Affirming Arbitrator's Report and Decision (Wash. U.T.C. Feb 28, 2003) ("[T]he mechanisms for negotiation, mediation, and arbitration provided by Section 252 apply to requests to negotiate made under Section 251(a).").

negotiation under Section 252 to petition a state commission for arbitration.[43/] Section 252(a)(1) addresses voluntary negotiations, and permits parties to enter into an interconnection agreement without regard to Sections 251(b) or 251(c).[44/] Once a CLEC requests interconnection pursuant to Section 251, either party may initiate a Section 252(b) arbitration if voluntary negotiations are not successful.[45/]

Section 252(a)(1) simply refers to requests for interconnection, services, or elements pursuant to Section 251.[46/] It does not specify Section 251(a), (b), or (c). Further, once it receives a petition for arbitration, a state commission's review is not limited to Section 251(c). Rather, it must resolve the outstanding issues consistent with the entirety of Section 251.[47/] Thus, any request for negotiation pursuant to Section 251 that does not result in a negotiated agreement may be resolved through arbitration.

**Embarq Position**

Embarq wrongly believes that parts of Intrado's interconnection request fall under Section 251(a) and claims that a Section 251(a) is a commercial agreement not subject to arbitration under Section 252.

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[43/] 47 U.S.C. § 252(a).

[44/] 47 U.S.C. § 252(a)(1).

[45/] 47 U.S.C. § 252(b).

[46/] 47 U.S.C. § 252(a)(1).

[47/] 47 U.S.C. § 252(c).

## II. PHYSICAL ARCHITECTURE

The FCC has determined that "the American public depends on 911 services in its emergencies" and that reliability in the 911 network results from the deployment of diverse routing of interoffice facilities, multiple 911 tandem switch architectures, and diverse links for ALI database access.[48/] Intrado's innovative, next-generation network helps promote reliability in the 911 network by creating an alternative emergency services network that can be used as the primary 911/E911 network and supports cutting-edge technologies such as those needed by VoIP service, video relay service ("VRS"), and telecommunications relay service ("TRS") providers to service the speech and hearing impaired communities. Because it incorporates IP-based technologies, Intrado's network is able to fully accommodate the myriad of IP-based services being offered today as well as readily adapt for the technologies of tomorrow, which are generally not supported by today's legacy 911 network. Each of these principals underlies Intrado's proposed language regarding the physical network to be deployed and interconnected with Embarq.

### A. Local Interconnection Arrangements (Section 55.1)

**Issue Presented**

Whether 911 Service and E911 Service calls should be included in the section regarding local interconnection and whether one-way trunks should be used by the Parties for the interconnection of the Parties' 911/E911 networks and E911 Tandems through inter-Selective Router trunking.

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[48/] *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 9 FCC Rcd 6170, ¶ 3, n.6 (1994).

**Intrado Position**

Given the unique nature of Intrado's service offering, the Parties will generally exchange only one type of telephone exchange service traffic - 911 Service and E911 Service calls (as those terms have been defined in the interconnection agreement) - over the local interconnection trunks that will be established under the interconnection agreement. Accordingly, Intrado has modified Embarq's proposed language to include 911 Service and E911 Service calls in the types of traffic to be exchanged by the Parties over local interconnection trunks.[49/]

Further, Intrado has proposed language requiring the use of one-way trunks to be used for the local interconnection of Embarq's network to Intrado's network and for inter-Selective Router trunking configurations, which would allow the transfer of emergency calls between Selective Routers/E911 Tandems (and consequently between PSAPs).[50/] As explained in more detail below, the purpose of such inter-Selective Router trunks is to ensure all emergency calls are routed to the correct PSAP while maintaining the critical information associated with the call, such as the caller's ANI and ALI..

In the *Virginia Arbitration Order*, the FCC's Wireline Competition Bureau rejected Verizon's proposal to subject the implementation of one-way or two-way interconnection trunks to the "mutual agreement" of the parties. Rather, the FCC found that CLECs have the right to require the ILEC to provide any technically feasible method of interconnection and that Verizon's consent was not a prerequisite for the implementation of interconnection trunks.[51/]

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[49/] Intrado Proposed Interconnection Agreement § 55.1 (Attachment 1).

[50/] Intrado Proposed Interconnection Agreement §§ 55.1.3, 55.1.4 (Attachment 1).

[51/] 47 C.F.R. § 51.305(f) (two-way trunking to be provided upon request); *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration, et al.*, 17 FCC Rcd 27039, ¶ 147 (2002) ("*Virginia Arbitration Order*").

Intrado's proposed language providing for one-way trunking in these two situations is in the public interest and should be adopted. .

**Embarq Position**

Embarq's position is unknown. Embarq did not respond to Intrado's initial edits in the Intrado September 23 Draft.

### B. Interconnection of Embarq Network to Intrado Network, Technical Requirements for Interconnection, Point of Interconnection, and Mid-Span Meet (Sections 55.2, 55.3, 55.4, 80.1)

**Issue Presented**

What is the most efficient, cost-effective physical architecture arrangement to achieve the greatest benefit for consumers.

**Intrado Position**

The Act and the FCC's rules do not permit Embarq to dictate the POIs that Intrado may use to exchange traffic with Embarq's network.[52/] Under the law, Intrado has the right to choose the location and number of points of interconnection on the incumbents' network, including the right to establish a single POI.[53/] The law is also clear that each carrier is required to bear the costs of delivering its originating traffic to the POI designated by the competitive carrier.[54/] Intrado has modified Embarq's proposed language consistent with rules of the FCC to make

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[52/] 47 U.S.C. § 251(c)(2); 47 C.F.R. § 51.305(a) ("[a]n incumbent LEC shall provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the incumbent LEC's network . . . at any technically feasible point within the incumbent LEC's network"); *Virginia Arbitration Order* ¶ 52 ("competitive LECs may request interconnection at any technically feasible point"), *app. for review pending* (filed Nov. 7, 2002); *Developing a Unified Intercarrier Compensation Regime,* 16 FCC Rcd 9610, ¶ 112 (2001) ("*Intercarrier Compensation NPRM*") ("an [incumbent carrier] must allow a requesting telecommunications carrier to interconnect at any technically feasible point").

[53/] *See, e.g., Virginia Arbitration Order* ¶ 52 ("competitive LECs may request interconnection at any technically feasible point"); *Intercarrier Compensation NPRM* ¶ 112 ("an [incumbent carrier] must allow a requesting telecommunications carrier to interconnect at any technically feasible point.").

[54/] 47 C.F.R. § 51.703; *Virginia Arbitration Order* ¶ 53.

clear that Intrado may designate the POI,[55] that Intrado is only required to establish one POI per LATA,[56] and that Intrado may request a meet-point to effectuate its interconnection arrangement with Embarq.[57]

In geographic areas in which Embarq has been designated as the primary 911 Service and E911 Service provider, Intrado seeks to establish a POI on Embarq's network for the termination of emergency calls originated by Intrado's end users destined for Embarq's network. This can be achieved by establishing a POI at Embarq's E911 Tandem/Selective Router or utilizing another meet-point for 911 Service and E911 Service calls serving the relevant LATA.[58] The Selective Router/E911 Tandem and any meet-point established by the Parties is deemed to be on Embarq's network, and thus is a technically feasible interconnection point under the FCC's rules.[59] Embarq, not Intrado, bears "the burden of demonstrating the technical infeasibility of a particular method of interconnection or access at any individual point."[60]

The 911 network is connected to the public switched telephone network for public safety purposes.[61] While the single POI arrangement is generally the most efficient network architecture arrangement for the exchange of plain old telephone service ("POTS") traffic, 911

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[55] Intrado Proposed Interconnection Agreement § 80.1 (Attachment 1).

[56] Intrado Proposed Interconnection Agreement § 55.2.1 (Attachment 1).

[57] Intrado Proposed Interconnection Agreement § 55.2.4 (Attachment 1); *see also* 47 C.F.R. § 51.321(b); *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers,* 11 FCC Rcd 15499, ¶ 553 (1996) ("*Local Competition Order*") (meet point arrangements "must be available to new entrants upon request") (intervening history omitted), *aff'd by AT&T Corp., et al. v. Iowa Utils. Bd., et al.*, 525 U.S. 366 (1999).

[58] Intrado Proposed Interconnection Agreement § 55.2.1 (Attachment 1).

[59] *VoIP E911 Order* ¶¶ 14-15, n.35, n.37; *Local Competition Order* ¶ 553 ("In a meet point arrangement, the 'point' of interconnection for purposes of sections 251(c)(2) and 251(c)(3) remains on 'the local exchange carrier's network.'").

[60] *Local Competition Order* ¶ 554.

[61] *VoIP E911 Order* ¶ 14 (noting that the E911 network is interconnected with the public switched telephone network).

traffic has historically been handled in a different manner. In geographic areas in which Intrado has been selected as the primary provider of 911 Services and E911 Services, Embarq's network must interconnect with Intrado's 911/E911 network so that customers of Embarq located in that geographic area can complete emergency calls to the appropriate PSAP (*i.e.*, Intrado's end user customer). Deviating from a single POI arrangement in those instances when Intrado is serving the PSAP results in the most efficient and effective network architecture and provides the highest degree of reliability for the 911 network. Indeed, Embarq has historically used this type of arrangement with adjacent ILECs to aggregate and transport 911/E911 traffic to the appropriate PSAP.[62/] Intrado simply seeks to mirror the type of interconnection arrangements that Embarq and other ILECs have used in the past for the termination of emergency calls.[63/]

Similar to the way in which ILECs in adjacent geographic territories handle emergency calls, Intrado has proposed language to govern the situations in which Intrado is serving the PSAP in a particular geographic area and is thereby the "primary" 911 Service and E911 Service provider for that area. Specifically, under Intrado's proposed language, Embarq would aggregate and/or transport its end users' emergency calls destined for Intrado's PSAP customers to a mutually agreed POI on Intrado's network and/or at Intrado's Selective Router/E911 Tandem or at a regional meet-point between the Parties' networks.[64/] Intrado's proposal therefore provides Embarq two options for delivering its end users' emergency calls destined for Intrado's PSAP customers.

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[62/] *Cf. Local Competition Order* ¶ 553 (finding that arrangements between neighboring ILECs for the mutual exchange of traffic are technically feasible arrangements for interconnection between CLECs and ILECs).

[63/] *Cf. Local Competition Order* ¶ 168 (recognizing that a new entrant cannot effectively compete when the new entrant cannot obtain interconnection on terms that are as favorable as the ILEC offers to neighboring ILECs).

[64/] Intrado Proposed Interconnection Agreement § 55.4 (Attachment 1). Intrado has also proposed language that would require Embarq to maintain certain company identifiers and codes to be able to terminate 911/E911 traffic on Intrado's network. *See* Intrado Proposed Interconnection Agreement § 55.3.3 (Attachment 1).

If Embarq were to select to interconnect at a regional meet-point between the Parties' networks, the Parties would negotiate a point at which one carrier's responsibility for service ends and the other carrier's begins and each Party would pay its portion of the costs to reach the meet-point.[65/] Embarq's proposed language regarding meet-point interconnection is not consistent with the FCC's requirements because the language would limit the facilities Embarq is required to build out to reach the meet-point.[66/] The FCC has determined that both the ILEC and the new entrant "gains value" from the use of a meet-point to exchange traffic and thus each Party to the arrangement should bear its portion of the economic costs of the arrangement.[67/]

Intrado's proposed interconnection arrangement is consistent with the law, promotes public safety, and reflects Embarq's existing relationships with other carriers for the termination of emergency calls. Accordingly, Intrado's proposed language should be adopted.[68/]

**Embarq Position**

Embarq's position is unknown because Embarq did not respond to Intrado's initial revisions in the Intrado September 23 Draft. Embarq appears to propose a network architecture arrangement that is, in some respects, contrary to the rules of the FCC.

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[65/] *Local Competition Order* ¶ 553 (finding each carrier must build out to the meet-point even if the ILEC is required to build out facilities to reach that point).

[66/] Embarq May 21 Draft § 55.2.4 (Attachment 4).

[67/] *Local Competition Order* ¶ 553.

[68/] Intrado Proposed Interconnection Agreement §§ 55.2, 55.3, 55.4 (Attachment 1).

### C. Inter-Selective Router Trunking (Section 55.5)

**Issue Presented**

Whether the Parties should implement Inter-Selective Router Trunking to allow emergency calls to be transferred between Selective Routers and the PSAPs connected to those Selective Routers while retaining the critical information associated with the emergency call.

**Intrado Position**

The FCC has determined that, if a particular method of interconnection is currently employed between two networks or has been used successfully in the past, a rebuttable presumption is created that such a method is technically feasible for substantially similar network architectures and ILECs bear the burden of demonstrating technical infeasibility.[69/] Embarq performs inter-Selective Router transfers today in several states. Such a transfer allows the ANI and ALI associated with the emergency call (*i.e.*, the information needed by the public safety agency to address the caller's emergency) to remain with that communication when it is transferred to the other Selective Router and/or PSAP. If the call is required to be re-routed over the public switched telephone network, the caller's ANI and ALI is lost.

Establishment of inter-Selective Router trunking would ensure that PSAPs are able to communicate with each other and more importantly, that mis-directed calls can be quickly and efficiently routed to the appropriate PSAP. The interoperability currently available to ILECs providing 911/E911 services must be made available to Intrado when it offers a competing 911/E911 service offering. Maintaining the same functionality available today is critical to encouraging PSAPs to consider switching to enhanced, next-generation 911/E911 networks such

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[69/] *Local Competition Order* ¶ 554.

as Intrado's and is necessary to the future deployment of such competitive networks.[70] The public benefit of such diverse and redundant interconnection also is reflected in the FCC's inquiry whether it should require redundant trunks to each Selective Router and/or require that multiple Selective Routers be able to route calls to each PSAP.[71] Intrado's proposed language seeks to establish such trunking and should be adopted.[72]

**Embarq Position**

Embarq's position is unknown because it did not provide a response to Intrado's proposed language in the Intrado September 23 Draft.

### D. Indirect Traffic (Section 60)

**Issue Presented**

Whether the provisions regarding indirect traffic pertain to the indirect exchange of 911 Service or E911 Service calls.

**Intrado Position**

As discussed above, Intrado has proposed language to address the issue of inter-Selective Router call transfers. This proposed language could be read to fall within "indirect" routing of emergency calls. On the contrary, Embarq's proposed language governing indirect traffic should not be read to pertain to the indirect routing of 911 call traffic.[73] Intrado has proposed language

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[70] *Cf. Telephone Number Portability*, 12 FCC Rcd 12281, ¶ 4 (1997) ("Number portability is essential to meaningful facilities-based competition in the provision of local exchange service because survey data show that customers are reluctant to switch carriers if they must change telephone numbers. In practical terms, the benefits of competition will not be realized if new facilities-based entrants are unable to win customers from incumbent providers as a result of economic or operational barriers.").

[71] *VoIP E911 Order* ¶ 59.

[72] Intrado Proposed Interconnection Agreement § 55.5 (Attachment 1).

[73] Embarq May 21 Draft § 60 (Attachment 4).

to avoid any suggestion or confusion that the routing of indirect traffic in Section 60 applies to the indirect routing of emergency calls.[74/] Intrado's proposed language should be adopted.

**Embarq Position**

Embarq's proposed language does not contain provisions addressing the indirect routing of 911 call traffic between the Parties.

[74/] Intrado Proposed Interconnection Agreement § 60 (Attachment 1).

## III. 911 AND E911 SERVICE AND RELATED SERVICES

### A. Intrado's Right to 911 and E911 Services from Embarq (Section 75.1)

**Issue Presented**

Whether the Parties are required to make certain services and functions available to each other on a reciprocal basis.

**Intrado Position**

As discussed above, in areas in which Intrado serves as the primary 911 Service and E911 Service provider, Intrado must have access to the 911 and E911 databases that Embarq is required to provide.[75] Likewise, in areas in which Intrado is the primary 911 Service and E911 Service provider, Embarq must have access to Intrado's 911 and E911 databases. Thus, Intrado has modified Embarq's proposed language to reflect that the Parties will provide these services to each other on a reciprocal basis.[76]

**Embarq Position**

Embarq's position is unknown. Embarq's proposed language would arbitrarily and unlawfully limit Intrado's right to access certain services that Embarq is required to provide and does not address Embarq's need to obtain the same services from Intrado.

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[75] 47 U.S.C. § 251(c); 47 C.F.R. § 51.319(f); *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978, ¶ 557 (2003) ("*Triennial Review Order*"), *aff'd in part, remanded in part, vacated in part, U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 587 (D.C. Cir. 2004) (subsequent history omitted).

[76] Intrado Proposed Interconnection Agreement § 75.1 (Attachment 1).

### B. Basic 911 and E911 Service (Sections 74.15, 75.2.3-75.2.5)

**Issue Presented**

How the Parties will provide 911 and E911 Services to each other when the primary provider of 911 and E911 services in a particular geographic area is: (1) Embarq; (2) Intrado; or (3) a third-party and whether Embarq is required to designate a contact to provide information to Intrado regarding 911 and E911 calls.

**Intrado Position**

Intrado has proposed language setting forth how each Party will participate in the provision of 911 and E911 services regardless of whether the primary provider of those services in a particular geographic area is Embarq, Intrado, or a third-party.[77/] This language is necessary because there may be areas in which Intrado or a third-party is the designated emergency services provider rather than Embarq. Embarq's language indicating that such a situation will be addressed in a separate agreement is unreasonable because the interconnection agreement is the relevant agreement to address the Parties' obligations to each other. In addition, Intrado has proposed language to address situations in which Intrado requires caller information from Embarq for in-progress 911 or E911 calls exchanged between the Parties. Intrado's proposed language should be adopted.[78/]

**Embarq Position**

Embarq's position is unknown. Its proposed language would require the Parties to address issues related to the provision 911 and E911 services via separate agreements.[79/]

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[77/] Intrado Proposed Interconnection Agreement §§ 75.2.3, 75.2.4, 75.2.6 (Attachment 1).

[78/] Intrado Proposed Interconnection Agreement §§ 75.2.3, 75.2.4, 75.2.6 (Attachment 1).

[79/] Embarq May 21 Draft §§ 75.2.3, 75.2.4 (Attachment 4).

### C. Basic 911 and E911 Databases (Sections 75.2.6)

**Issue Presented**

How the Parties will obtain access to each other's basic 911 and E911 databases.

**Intrado Position**

Under the FCC's rules, Embarq is required to provide Intrado with nondiscriminatory access to Embarq's 911 and E911 databases on an unbundled basis.[80/] The FCC determined that CLECs like Intrado must have access to such databases "because of the unique nature of 911 and E911 services and the [surrounding] public safety issues . . . to ensure that their customers have access to emergency services."[81/] Intrado has modified Embarq's proposed language to acknowledge Embarq's requirements to provide Intrado access to Embarq's 911 and E911 databases when either Embarq *or* Intrado has been designated as the primary 911/E911 service provider.[82/] To ensure the greatest degree of reliability for handling public calls for emergency services, Intrado's proposed language also recognizes that both Parties have an obligation to work together as co-carriers to quickly and accurately upload end user record information into the relevant databases while maintaining the confidentiality of the data.[83/] Intrado's proposed language should be adopted.

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80/ 47 U.S.C. § 251(c); 47 C.F.R. § 51.319(f); *Triennial Review Order* ¶ 557.

81/ *Triennial Review Order* ¶ 557.

82/ Intrado Proposed Interconnection Agreement § 75.2.6 (Attachment 1).

83/ Intrado Proposed Interconnection Agreement § 75.2.6 (Attachment 1).

**Embarq Position**

Embarq's position is unknown. Its proposed language did not reflect the fact that both Parties need access to the other Party's databases and imposed some requirements only on Intrado.

### D. MSAG and SIG (Sections 1.76, 1.111, 72.3)

**Issue Presented**

Whether the term "MSAG" should be used instead of "SIG" and whether both Parties have obligations to provide MSAG updates to each other.

**Intrado Position**

Master Street Address Guide or MSAG is the term commonly used to describe the database of street names and house numbers within a particular community that is used to enable the proper routing of 911/E911 calls.[84/] Embarq's proposed language, however, uses the less-common term Street Index Guide or SIG.[85/] The Parties' interconnection agreement should use industry-standard nomenclature, and thus Intrado has included a definition of MSAG in the agreement and changed all "SIG" references in the agreement to "MSAG."[86/] Further, Intrado has revised Embarq's proposed language to require both Parties to provide MSAG updates to the other Party.[87/] As explained above, both Parties need to provide updates to and retrieve information from the MSAG depending on which Party (or a third-party) is the primary

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[84/] *See, e.g.*, NENA Master Glossary of 9-1-1 Terminology at 46 (Version 10, June 5, 2007), *available at* http://www.nena.org/media/files/NENA00-001_V1020070605.pdf.

[85/] Embarq May 21 Draft § 1.100 (Attachment 4).

[86/] Intrado Proposed Interconnection Agreement §§ 1.76, 1.111, 72.3 (Attachment 1).

[87/] Intrado Proposed Interconnection Agreement § 72.3 (Attachment 1).

911/E911 provider for a particular geographic area. Accordingly, Intrado's proposed language should be adopted.

**Embarq Position**

Embarq seeks to use a non-standard term rather than the more commonly known term for "MSAG" and has proposed language that would impose one-sided MSAG requirements on Intrado.[88/]

### E. 911 and E911 Related Definitions (Sections 1.9, 1.46, 1.50, 1.55, 1.81, 1.96, 1.100, 1.101, 1.104, 1.106, 1.108)

**Issue Presented**

Whether certain definitions related to the Parties' provision of 911 and E911 Service should be included in the interconnection agreement and what definitions should be used.

**Intrado Position**

Consistent with the type of telephone exchange service traffic it intends to exchange with Embarq, Intrado has proposed definitions for several 911 and E911 related terms for inclusion in the Parties' interconnection agreement.[89/] These definitions are consistent with industry standards and should be adopted.[90/]

**Embarq Position**

Embarq's position is unknown. Its proposed language did not include any of the definitions proposed by Intrado.

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[88/] Embarq May 21 Draft §§ 1.100, 72.3 (Attachment 4).

[89/] Intrado Proposed Interconnection Agreement §§ 1.9 (Automatic Location Identification/Database Management System), 1.46 (E9-1-1 Authority), 1.50 (Emergency Service Number), 1.55 (Enhanced 911 Service), 1.81 (NENA Company Identifier), 1.89 (PSAP ALI Messaging (PAM) Interface Protocol), 1.100 (Pseudo-ANI), 1.101 (Public Safety Answering Point), 1.104 (Shell Records), 1.106 (Selective Router), and 1.108 (Service Order Information) (Attachment 1).

[90/] *See generally* NENA Master Glossary of 9-1-1 Terminology (Version 10, June 5, 2007), *available at* http://www.nena.org/media/files/NENA00-001_V1020070605.pdf.

## IV. INTERCARRIER COMPENSATION (SECTION 56.11)

**Issue Presented**

Whether the 911 Service and E911 Service calls exchanged between Intrado and Embarq should be subject to intercarrier compensation.

**Intrado Position**

Neither Embarq nor Intrado should be eligible for intercarrier compensation for the termination of 911 Service or E911 Service calls on either Party's network. Intrado's proposed language clarifies this point.[91/] When Intrado and Embarq exchange 911 Service or E911 Service calls destined for the other Party's network, those calls will terminate at the Selective Router/E911 Tandem or other designated POI for routing to the appropriate PSAP. These calls are identical to any emergency call terminated by a CLEC or ILEC on Embarq's network today. CLECs and ILECs do not exchange compensation for terminating such traffic. Accordingly, Intrado's language stating that 911 Service or E911 Service calls exchanged between the Parties are not subject to intercarrier compensation should be adopted.[92/]

**Embarq Position**

Embarq's position is unclear because it has not responded to Intrado's language as set forth in the Intrado October 8 Draft.

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91/ Intrado October 8 Draft § 56.11 (Attachment 8).

92/ Intrado Proposed Interconnection Agreement § 56.11 (Attachment 1).

## V. LEGAL AND FINANCIAL OBLIGATIONS

### A. Term and Termination (Sections 5.1, 5.3, 5.5, 96.1)

**Issue Presented**

The issues presented are: (1) what term should apply to the interconnection agreement; (2) whether Embarq can delay the effective date of the interconnection agreement based on unrelated past due obligations with Embarq or any of its affiliates; (3) whether the requirement to establish a customer account should be reciprocal; (4) whether Embarq may unilaterally dictate when Intrado initiates service by having the unilateral right to terminate the agreement; (5) whether Embarq may terminate the agreement based on information it locates in public sources regarding Intrado; (6) whether Embarq must provide certain notices to Intrado when Embarq intends to sell its assets; and (7) whether Embarq may terminate the agreement without notice to Intrado in the event of Intrado's bankruptcy.

**Intrado Position**

*First*, Intrado seeks a three-year term, which is common for interconnection agreements.[93/] The process of negotiating an interconnection agreement is highly resource-intensive, both in terms of time and money. The two-year term proposed by Embarq would force Intrado to commence re-negotiations with Embarq within a relatively short time after executing the interconnection agreement (*e.g.*, Intrado's request to renegotiate would be due approximately 18 months after the agreement is executed). Requiring Intrado to divert its attention and resources from providing its life-saving services to interconnection negotiations is not in the interests of Intrado's customers and is decidedly counter to the public interest. In effect, a two-year term erects a barrier to entry for smaller, competitive carriers that lack the extensive

[93/] Intrado October 8 Draft § 5.1 (Attachment 8).

resources of a large incumbent, and who, to survive, must focus on providing service to their customers rather than engaging in protracted negotiations. Embarq should be required to follow a more reasonable standard of three years as proposed by Intrado.[94/]

*Second*, Embarq seeks to delay the effective date of the interconnection agreement until any past due obligations Intrado may have with Embarq or its affiliates are paid in full.[95/] There is no justification for this provision. Embarq is obligated under the law to provide interconnection to Intrado. Any billing disputes Embarq may have with Intrado in connection with unrelated arrangements must be dealt with through the context of those arrangements. Issues concerning Intrado's payment history also can be addressed through other provisions of the agreement, such as those that allow Embarq to obtain a security deposit from Intrado. Moreover, it is unreasonable for Embarq to delay implementation of the interconnection agreement if Intrado has legitimately disputed an invoice consistent with the procedures for doing submitting such disputes. The FCC has recommended that assurance of payment obligations be "narrowly tailored to target only those customers that pose a genuine risk of nonpayment."[96/] Intrado's proposed language should be adopted.[97/]

*Third*, Embarq proposed language that would require only Intrado to establish a "customer account" prior to Intrado's orders for services being processed.[98/] Not only does this language unilaterally favor Embarq, but it could also result in Embarq intentionally delaying Intrado's service orders pending completion of Embarq's "customer account" requirements. To

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[94/] Intrado Proposed Interconnection Agreement § 5.1 (Attachment 1).

[95/] Embarq May 21 Draft § 5.1 (Attachment 4).

[96/] *Verizon Petition for Emergency Declaratory and Other Relief*, 17 FCC Rcd 26884, ¶ 27 (2002).

[97/] Intrado Proposed Interconnection Agreement § 5.1 (Attachment 1).

[98/] Embarq May 21 Draft § 5.1 (Attachment 4).

the extent customer account information is to be exchanged between the Parties, the requirement should be reciprocal and thus Intrado's language should be adopted.[99/]

*Fourth*, Intrado has modified Embarq's proposed language that would allow Embarq to unilaterally terminate the interconnection agreement if Intrado has not exchanged traffic with or submitted orders to Embarq within 180 days of the effective date.[100/] Requiring Intrado to initiate service within a particular timeframe is irrelevant to the Parties' interconnection obligations. This requirement erects an arbitrary and unjustifiable barrier to Intrado's market entry by imposing artificial deadlines that must be met regardless of Intrado's business imperatives. Intrado alone must be able to determine how best to schedule its market entry and expend its resources. There is no legitimate reason for Embarq to dictate Intrado's business decisions. Furthermore, if such a requirement were to be adopted, it should be reciprocal - Intrado should have the same right to terminate the interconnection agreement as Embarq. Intrado, however, has rejected such termination language for the reasons described above. Accordingly, Intrado's revised language should be adopted.[101/]

*Fifth*, Embarq has proposed language that would allow it to terminate the agreement based on public information that Intrado is no longer doing business in the state.[102/] It is unreasonable to allow Embarq to terminate the Parties' interconnection agreement unilaterally and based on public information. In addition, both Parties should have the same right to terminate the interconnection agreement if one of the Party's ceases doing business in the state. Thus, Intrado's more reasonable proposed language, which allows either Party to terminate the

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[99/] Intrado Proposed Interconnection Agreement § 5.1 (Attachment 1).

[100/] Embarq May 21 Draft § 5.3 (Attachment 1); Intrado Proposed Interconnection Agreement § 5.3 (Attachment 1).

[101/] Intrado Proposed Interconnection Agreement § 5.3 (Attachment 1).

[102/] Embarq May 21 Draft § 5.3 (Attachment 4).

agreement based on written notice to the other Party (rather than unilaterally based only on publicly available information) that it has ceased doing business in the state, should be adopted.[103/]

*Sixth*, Embarq has proposed language that would allow it to terminate the agreement if it sells its assets in certain situations.[104/] Intrado has modified this language to specify that it must receive prior written notice from Embarq if Embarq intends to sell its assets and that the interconnection agreement may only be terminated consistent with relevant state commission requirements and the approval process for asset sales.[105/] Intrado's language is reasonable and should be adopted.

*Seventh*, in the event of Intrado's bankruptcy, Embarq should not be permitted to terminate without notice to Intrado.[106/] Bankruptcy may take many forms. In fact, many carriers go through bankruptcy unbeknownst to their customers. There is no reason for Embarq to unilaterally terminate the agreement without notice to Intrado. Accordingly, Intrado's proposed language eliminating this option should be adopted.[107/]

**Embarq Position**

Embarq's position is unknown. Although Embarq responded to some of Intrado's revisions in the Intrado October 8 Draft, it did not respond with respect to these issues. It appears Embarq seeks the right to unilaterally terminate the interconnection agreement or make

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[103/] Intrado Proposed Interconnection Agreement § 5.3 (Attachment 1).

[104/] Embarq May 21 Draft § 5.5 (Attachment 4).

[105/] Intrado Proposed Interconnection Agreement § 5.5 (Attachment 1).

[106/] Embarq May 21 Draft § 96.1 (Attachment 4).

[107/] Intrado October 8 Draft § 96.1 (Attachment 8); Intrado Proposed Interconnection Agreement § 96.1 (Attachment 1).

significant changes that would affect the Parties' interconnection relationship without appropriate notice to or information from Intrado.

### B. Post-Expiration Interim Service Arrangements (Sections 6.2, 6.3.2)

**Issue Presented**

Whether Embarq may arbitrarily terminate its provision of critical services to Intrado after expiration of the agreement and whether Embarq may unilaterally dictate the terms and conditions on which it will provide services to Intrado after expiration of the agreement.

**Intrado Position**

Embarq's proposed language correctly sets forth a process for how the Parties will ensure that services to end users will not be interrupted after expiration of the interconnection agreement.[108/] Embarq, however, has included language that would allow services to continue only if Intrado makes a written request and only for a period of one-year after the expiration of the interconnection agreement.[109/] Embarq's language also gives Embarq the unilateral right to dictate the terms and conditions that will apply to its continued provision of services if the Parties do not reach a successor agreement after expiration of their existing agreement.[110/]

There should be no requirement for Intrado to make a written request for services to continue and no specific time limitation on Embarq's provision of services to Intrado. To the extent the Parties are in the process of negotiating a new interconnection agreement, the existing interconnection agreement should remain in place until a new agreement is reached. This is consistent with industry standard and will ensure that the critical emergency services provided by

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[108/] *See generally* Embarq May 21 Draft § 6 (Attachment 4).

[109/] Embarq May 21 Draft § 6.2 (Attachment 4).

[110/] Embarq May 21 Draft § 6.3.2 (Attachment 4).

Intrado will continue without interruption regardless of the status of negotiations with Embarq. As the Parties are well aware, it is rare that interconnection agreement negotiations (and any resulting arbitration) are completed within the time frame specified by Embarq.

Moreover, to the extent the Parties cannot reach a successor agreement, Intrado has the sole right to determine how its relationship with Embarq will be governed - through generally available terms or via the adoption of another interconnection agreement. Embarq cannot unilaterally dictate what terms will apply to the Parties' relationship by independently "designating" an interconnection agreement to be used by the Parties as its language suggests. Accordingly, Intrado's proposed language should be adopted.[111/]

**Embarq Position**

Embarq's position is unknown. The language in the Embarq May 21 Draft would only allow services ordered by Intrado to continue for a minimum for one year after the agreement terminates regardless of the critical need for emergency services and only if Intrado makes a request in writing.[112/] To the extent the Parties could not agree on new terms, Embarq's proposed language would unilaterally dictate the terms and conditions to be applied to its continued provision of services.[113/]

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[111/] Intrado Proposed Interconnection Agreement §§ 6.2, 6.3.2 (Attachment 1).

[112/] Embarq May 21 Draft §§ 6.2 (Attachment 4).

[113/] Embarq May 21 Draft §§ 6.3.2 (Attachment 4).

### C. Billing and Payment of Intrado Charges and Dispute Resolution (Sections 7.1-7.10, 25.3)

**Issue Presented**

Whether the interconnection agreement should include reciprocal language governing the billing, payment, and dispute resolution process for both Parties.

**Intrado Position**

The Embarq May 21 Draft includes provisions setting forth the process and procedures for billing and payment of Embarq's charges to Intrado and the process for addressing billing disputes.[114/] The interconnection agreement, however, did not include reciprocal provisions for billing and payment of Intrado's charges to Embarq, and in some places, made the dispute resolution process one-sided in favor of Embarq. Intrado initially modified the language to include specific provisions governing Intrado's billing to Embarq.[115/] As co-carriers, however, to the extent the Parties will be exchanging bills, they should be governed by the same procedures. Intrado has modified the agreement to make the existing Embarq procedures applicable to both Parties. Intrado's proposed language should be adopted.[116/]

**Embarq Position**

Embarq's position is unknown. Although Embarq responded to some of Intrado's revisions in the Intrado October 8 Draft, it did not respond with respect to Intrado's initial mark-up to provide for reciprocal billing and payment procedures. It is also unclear why Embarq's proposed language includes one-sided dispute resolution procedures.

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[114/] Embarq May 21 Draft §§ 7, 25 (Attachment 4).

[115/] Intrado October 8 Draft § 7.2 (Attachment 8).

[116/] Intrado Proposed Interconnection Agreement §§ 7, 25.3 (Attachment 1).

### D. Audits (Section 8.1)

**Issue Presented**

Whether audits should be performed by independent, third-party auditors.

**Intrado Position**

Intrado agrees with Embarq that audits may be required in certain situations, but has modified Embarq's proposed language to make clear that any such audit must be conducted by an independent, third-party auditor rather than the in-house personnel of the Parties.[117] Audits should be performed only by an independent auditor acceptable to both Parties. Audits are costly and force a company to direct precious resources to the audit task and away from the business plan. Furthermore, audit power can be easily abused and must be applied only in limited circumstances, especially when the parties involved do not hold equal positions in the emerging competitive market. Such audits can also be used to stifle competition by creating financial burdens on new entrants and distracting resources to the audit. An independent auditor with the auditing party incurring the costs of the audit is crucial to maintaining a balance between parties with uneven market positions. Intrado's proposed revision should be adopted.[118]

**Embarq Position**

Embarq's position is unknown. Although Embarq responded to some of Intrado's revisions in the Intrado October 8 Draft, it did not respond with respect to the Term and Termination section of the interconnection agreement.

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[117] Intrado October 8 Draft § 8.1 (Attachment 8).

[118] Intrado Proposed Interconnection Agreement § 8.1 (Attachment 1).

### E. Intellectual Property (Sections 9.2, 9.5, 9.6)

**Issue Presented**

Whether the language governing intellectual property rights should be reciprocal.

**Intrado Position**

Both Parties have certain rights and obligations with respect to intellectual property that may be used by the Parties as part of their co-carrier interconnection relationship. Embarq's proposed language, however, is one-sided and governs only Intrado's rights and obligations.[119/] Intrado's proposed language provides each Party reciprocal, equal rights and obligations and should be adopted.[120/]

**Embarq Position**

Embarq's position is unknown. It appears Embarq would limit intellectual property rights and obligations to Intrado.

### F. Limitation of Liability (Section 10.2)

**Issue Presented**

Whether the language governing limitation of liability should apply equally to both Parties.

**Intrado Position**

Intrado has modified Embarq's proposed language to apply equally to both Parties.[121/] While many of Embarq's proposed limitation of liability provisions are reciprocal, the provision

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[119/] Embarq May 21 Draft §§ 9.2, 9.5, 9.6 (Attachment 4).

[120/] Intrado Proposed Interconnection Agreement §§ 9.2, 9.5, 9.6 (Attachment 1).

[121/] Intrado Proposed Interconnection Agreement § 10.2 (Attachment 1).

governing service outages applies only to Embarq.[122] There is no reason why Intrado's liability should not be limited to the same extent as Embarq's. Intrado's proposed language should be adopted.[123]

**Embarq Position**

Embarq's position is unknown. The Embarq May 21 Draft includes some reciprocal limitation of liability provisions, but not all of the provisions apply equally to both Parties.[124]

### G. Indemnification (Section 11.7, 11.9-11.13, 93)

**Issue Presented**

There are three issues: (1) whether the indemnification language should be reciprocal; (2) whether certain indemnification provisions should be qualified as only applying to Intrado's use of physical collocation; and (3) whether the indemnification language needs to be repeated in the physical location section of the interconnection agreement.

**Intrado Position**

As co-carriers, both Parties should have equal responsibilities regarding their indemnification rights and obligations. While most of Embarq's proposed language is reciprocal in nature, certain provisions are not.[125] Intrado has modified those provisions to apply equally to both Parties.[126] In addition, Intrado has clarified which indemnification provisions apply solely to Intrado's physical collocation at Embarq's locations.[127] Without this clarification, many of

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[122] Embarq May 21 Draft § 10.2 (Attachment 4).

[123] Intrado Proposed Interconnection Agreement § 10.2 (Attachment 1).

[124] Embarq May 21 Draft § 10 (Attachment 4).

[125] Embarq May 21 Draft § 11.7 (Attachment 4).

[126] Intrado Proposed Interconnection Agreement § 11.7 (Attachment 1).

[127] Intrado Proposed Interconnection Agreement §§ 11.9-11.13 (Attachment 1).

the indemnification provisions could be read to apply in any situation when those provisions were intended to apply only when Intrado physically collocates. And, given that the collocation indemnification procedures apply only to Intrado, Intrado has qualified the provisions to ensure that Intrado is only subject to indemnification for claims caused by its negligence or willful misconduct or omission.[128/] As originally written, Embarq's proposed language was very broad and would require Intrado to indemnify Embarq for any and all claims rather than only those caused by Intrado's negligence or willful misconduct or omission.[129/]

Intrado also has deleted the repetitive indemnification provisions contained in the collocation section of the interconnection agreement.[130/] Duplicative provisions governing the same concepts may lead to confusion as to what provisions apply in various situations. Intrado's proposed language making the indemnification provisions reciprocal and clarifying when those provisions apply should be adopted.[131/]

**Embarq Position**

Embarq's position is unknown. Embarq has proposed indemnification language that is very broad and not consistently reciprocal.[132/] Embarq also has proposed to include repetitive and unnecessarily duplicative provisions regarding Intrado's indemnification obligations for physical collocation.[133/]

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[128/] Intrado Proposed Interconnection Agreement § 11.9 (Attachment 1).

[129/] Embarq May 21 Draft § 11.9 (Attachment 4).

[130/] Intrado Proposed Interconnection Agreement § 93 (Attachment 1).

[131/] Intrado Proposed Interconnection Agreement §§ 11.7, 11.9-11.13, 93 (Attachment 1).

[132/] Embarq May 21 Draft §§ 11.7, 11.9-11.13 (Attachment 4).

[133/] Embarq May 21 Draft § 93 (Attachment 4).

### H. Insurance (Sections 12.7, 12.9)

**Issue Presented**

Whether Intrado's liability to Embarq should be limited by the amounts of insurance Intrado carries and whether the insurance provisions of the interconnection agreement should be consistent with the certificate of insurance ("COI") forms Intrado is required to complete.

**Intrado Position**

Intrado has deleted the provision that would make its liability to Embarq unlimited.[134/] As Embarq has admitted, the concept of unlimited liability is not consistent with other parts of the agreement, such as the indemnification and limitation of liability provisions.[135/] In addition, Intrado has modified the insurance language contained in the interconnection agreement to be consistent with the COI form Intrado is required to provide to Embarq.[136/] The language of the interconnection agreement should be consistent with the other forms and documents Intrado is required to complete. Accordingly, Intrado's proposed language should be adopted.

**Embarq Position**

Embarq admits that the section addressing unlimited liability is "redundant" to other provisions of the interconnection agreement but would prefer to retain the provision.[137/] Embarq also recognizes that its proposed language is not consistent with the COI form, but determined that Intrado's revised language was "unacceptable."[138/]

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[134/] Intrado October 8 Draft § 12.7 (Attachment 8).

[135/] Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 10, 2007) (Attachment 9).

[136/] Intrado October 8 Draft § 12.9 (Attachment 8).

[137/] Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 10, 2007) (Attachment 9).

[138/] Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 10, 2007) (Attachment 9).

## I. Modification of Parties' Networks (Section 54)

**Issue Presented**

Whether Intrado is permitted to make modifications to its network in the same manner that Embarq is permitted to do so.

**Intrado Position**

The Embarq May 21 Draft includes a section giving Embarq the right to modify its network in certain situations, but did not address Intrado's rights to modify or upgrade its network.[139/] Intrado has proposed language recognizing Intrado's right to deploy, upgrade, and maintain its network and facilities at Intrado's discretion. And consistent with Embarq's obligations, Intrado's language also ensures that Embarq will receive adequate notice of any such modifications that may affect Embarq or its end users.[140/] Intrado's proposed language is reasonable and should be adopted.[141/]

**Embarq Position**

Embarq's position is unknown because it has not responded to the Intrado September 23 Draft.

## J. Forecasting (Sections 58.3, 58.6, 58.7)

**Issue Presented**

Whether Embarq is required to provide forecasts for E911 trunks to Intrado and whether the forecasting provisions should be reciprocal.

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[139/] Embarq May 21 Draft § 54 (Attachment 4).

[140/] Intrado September 23 Draft §§ 54.5, 54.6 (Attachment 6).

[141/] Intrado Proposed Interconnection Agreement §§ 54.5, 54.6 (Attachment 1).