

# **Attachment 1 - Statement of Unresolved Issues**

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## **ATTACHMENT 1 - STATEMENT OF UNRESOLVED ISSUES**

While incumbent local exchange carriers (“ILECs”) have experienced virtually no competition in their provision of 911/E-911 services to public safety answering points (“PSAPs”) since the passage of the Communications Act of 1934, as amended (“Act”), the framework for local competition established in 1996 supports the arrangements proposed by Intrado Comm. A primary consideration for establishing interconnection with the public switched telephone network (“PSTN”) for the competitive provision of 911/E-911 services to PSAPs is what policies and arrangements will best promote reliable and resilient services and a diverse and redundant network for public safety agencies to most effectively respond to 911 callers.

Interconnection for the purposes of providing competitive 911/E911 services must look beyond the traditional interconnection arrangements used for plain old telephone service (“POTS”) and seek to establish physical architecture arrangements that specifically address the special needs of 911 callers and first responders. Interconnection for the purpose of allowing callers to call others is different from interconnection that ensures 911 callers reach the right PSAP when they have an emergency and need help. While the language of Section 251 itself may not make a distinction between interconnection for POTS and interconnection for 911/E-911 services, Commission precedent and Verizon’s own network 911 architecture arrangements clearly demonstrate a well-established difference between interconnection for the exchange of POTS traffic and interconnection for the provision of 911/E-911 services to PSAPs.<sup>1</sup>

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<sup>1</sup> See, e.g., Verizon Template Interconnection Agreement at 911 Attachment Section 3.2 (requiring competitors to “interconnect with each Verizon 911/E-911 Tandem Office(s)/Selective Router(s)” and “provide a minimum of two (2) one-way outgoing 911/E-911 trunks over diversely routed facilities that are dedicated for originating 911/E-911 Calls from the [CLEC] switch to each designated 911/E-911 Tandem Office(s)/Selective Router(s)”) (Attachment 5 to Intrado Comm VSCC Petition for Arbitration); AT&T 22-State Template Interconnection Agreement at

The Commission has recognized that 911/E-911 services are unique and different.<sup>2</sup> This is demonstrated by the interconnection and routing arrangements ILECs have established for themselves, and since the passage of the Act, the arrangements ILECs seek from competitive local exchange carriers (“CLECs”) who need to complete their customers’ 911 calls to ILEC PSAP customers. The physical architecture arrangements Intrado Comm seeks in its interconnection agreement with Verizon are critical to issues of reliability, redundancy, and minimizing points of failure for 911/E-911 services.<sup>3</sup> These are the key considerations when establishing interconnection arrangements for public safety providers.<sup>4</sup>

The Commission has a critical role in the oversight of the rollout of 911 services. Sections 251(e) and 706 of the Act give the Commission (as well as state commissions) the

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Attachment 5 Sections 4.1.1, 4.1.2 (stating that “CLEC will transport the appropriate 911 calls from each Point of Interconnection (POI) to the appropriate AT&T-22STATE E911 SR location” and “CLEC shall be financially responsible for the transport facilities to each AT&T-22STATE E911 SR”), *available at* <https://clec.att.com/clec/shell.cfm?section=115#Multi-State>.

<sup>2</sup> See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 23 FCC Rcd 5255, ¶ 29 (2008) (“*TRS 911 Order*”) (recognizing “the importance of emergency call handling for all Americans”); *E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, ¶ 6 (2005) (“*VoIP E911 Order*”) (“the American public has developed certain expectations with respect to the availability of 911 and E911 emergency services”).

<sup>3</sup> See, e.g., *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Services*, 14 FCC Rcd 10954, ¶ 2 (1999) (adopting rules to “improve 911 reliability, [and] increase the probability that 911 calls will be efficiently and successfully transmitted to public safety agencies”); Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 (expressing intent of statute to establish a “seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation’s public safety and other communications needs”) (“911 Act”); see also *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, 22 FCC Rcd 10541, ¶ 96 (2007) (“*Katrina Order*”) (recognizing goal to ensure “Americans have access to a resilient and reliable 911 system irrespective of the technology used to provide the service”); New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283 (recognizing importance of reliable 911 systems).

<sup>4</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 23 FCC Rcd 5255, ¶ 23 (2008) (recognizing the goal to have the most efficient and most reliable 911/E911 network possible regardless of the platform or technology used by end user’s service provider or the means by which the individual places the call).

authority to oversee the deployment of 911 services.<sup>5</sup> The Commission has recognized that the “uniform availability of E911 services may spur consumer demand” for broadband services, which accomplishes the goals of the Act.<sup>6</sup> The Commission has emphasized that 911/E-911 services also play a “critical role” in achieving the Act’s goal of promoting safety of life and property and that “promoting an effective nationwide 911/E911 emergency access system has become one of the Commission’s primary public safety responsibilities under the Act” because “[i]t is difficult to identify a nationwide wire or radio communication service more immediately associated with promoting safety of life and property than 911.”<sup>7</sup> The Commission further noted “[i]n the 911 Act, Congress made a number of findings regarding wireline and wireless 911 services, including that ‘improved public safety remains an important public health objective of Federal, State, and local governments and substantially facilitates interstate and foreign commerce,’ and that ‘emerging technologies can be a critical component of the end-to-end communications infrastructure connecting the public with emergency [services].’”<sup>8</sup>

A Section 251(c) interconnection agreement will permit Intrado Comm to offer its competitive 911/E-911 service to PSAPs, which will further the Act’s goals of opening up local markets to competition as well as enhancing the connection between all types of technologies used by the public to reach emergency services provided by Intrado Comm PSAP customers.

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<sup>5</sup> *VoIP E911 Order* ¶¶ 31, 33.

<sup>6</sup> *VoIP E911 Order* ¶ 31.

<sup>7</sup> *VoIP E911 Order* ¶ 29 (citing *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 9 FCC Rcd 6170, ¶ 7 (1994)).

<sup>8</sup> *VoIP E911 Order* ¶ 32 (citing 911 Act § 3(a)).

These Congressional mandates support and necessitate the adoption of Intrado Comm's proposals in their entirety.

## **I. PHYSICAL ARCHITECTURE**

Along with providing a competitive local exchange alternative, Intrado Comm's innovative network and services also help promote reliability in the 911 network by creating an alternative emergency services network that supports cutting-edge technologies such as those needed by VoIP service providers, video relay service ("VRS") providers, and telecommunications relay service ("TRS") providers. The Commission 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 automatic location information ("ALI") database access.<sup>9</sup> Intrado Comm's network incorporates IP-based technologies and, as such, is able to fully accommodate the myriad of IP-based services being offered to consumers today as well as readily adapt to the technologies of tomorrow, which generally are not supported by today's legacy ILEC networks. The principles enunciated by the Commission are incorporated into Intrado Comm's network architecture and 911/E-911 service offering, and reflected in its proposed interconnection agreement language between Intrado Comm and Verizon.

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

**A. ISSUE 1: Point of Interconnection and Interconnection of Verizon Network to Intrado Comm Network (911 Attachment, Sections 1.3, 1.4, 1.5, 1.6.2, 1.7.3, 2.3.1; Glossary, Sections 2.63, 2.67)**

**Issue Presented**

Where should the points of interconnection be located and what terms and conditions should apply with regard to interconnection and transport of traffic?

**Intrado Comm Position**

In geographic areas in which Verizon has been designated as the 911/E-911 service provider, Intrado Comm seeks to establish a point of interconnection (“POI”) on Verizon’s network for the termination of 911/E-911 service traffic.<sup>10</sup> As a competitive provider, Intrado Comm has the right to designate the location of the POI pursuant to Section 251.<sup>11</sup> The Parties have agreed that this POI will be established at Verizon’s selective router when Verizon is the 911/E-911 service provider.<sup>12</sup> Further, Intrado Comm has agreed to establish POIs at each Verizon selective router when Verizon has deployed geographically diverse, mated-pair selective router arrangements.

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<sup>10</sup> Attachment 3, 911 Attachment §§ 1.3, 1.4, 1.5, 1.6.2, 1.7.3, 2.3.2, Glossary §§ 2.63, 2.67.

<sup>11</sup> 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”); *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, ¶ 52 (2002) (“*Virginia Arbitration Order*”) (“competitive LECs may request interconnection at any technically feasible point”); *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”).

<sup>12</sup> Attachment 3, 911 Attachment §§ 1.3, 1.4, 1.5, 1.6.2, 1.7.3, 2.3.2, Glossary §§ 2.63, 2.67.

The 911 network is connected to the PSTN for public safety purposes.<sup>13</sup> All 911 calls made to PSAPs are transported via the PSTN. The ILECs' existing interconnection arrangements reflect an understanding that 911 traffic is different from other traffic and requires that it be handled differently from the traditional single POI arrangement used by competitors for the exchange of POTS traffic. When Intrado Comm is the designated 911/E-911 service provider, Intrado Comm has proposed that the Parties follow the same method of interconnection that Verizon provides to itself and requires of other carriers seeking access to Verizon PSAP customers.

Under this method, in geographic areas in which Intrado Comm is the designated 911/E-911 service provider, Verizon would interconnect at two geographically diverse points on Intrado Comm's network so that customers of Verizon located in that geographic area can complete emergency calls to the appropriate PSAP (*i.e.*, Intrado Comm's end user customer).<sup>14</sup> Deviating from an arrangement in which there is a single POI on the incumbent's network when Intrado Comm is serving the PSAP results in the most efficient and effective network architecture and provides the highest degree of reliability for the provision of 911 services. It also provides Intrado Comm with interconnection arrangements that are equal to what Verizon provides to itself to serve its PSAP customers.

Intrado Comm's proposal is consistent with the arrangements Verizon uses within its own network for the delivery of its end users' 911 calls to Verizon served PSAPs and those arrangements Verizon requires of competitors seeking to terminate their end users' 911 calls to

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<sup>13</sup> *VoIP E911 Order* ¶ 14 (noting that the E-911 network is interconnected with the public switched telephone network).

<sup>14</sup> Attachment 3, 911 Attachment §§ 1.3, 1.4, 1.5, 1.6.2, 1.7.3, 2.3.2, Glossary §§ 2.63, 2.67.

Verizon served PSAPs. For example, Verizon's template interconnection agreement requires CLECs:

- to establish interconnection at a point on Verizon's network for the transmission and routing of POTS traffic<sup>15</sup> with each party being responsible for the transport facilities on its side of that POI<sup>16</sup> **and**
- to interconnect with each Verizon 911/E-911 selective router that serves the exchange areas in which the CLEC offers service<sup>17</sup> **and**
- to provide a minimum of two (2) one-way outgoing 911/E-911 trunks over diversely routed facilities that are dedicated for originating 911/E-911 calls from the CLEC's switch to each designated Verizon 911/E-911 selective router<sup>18</sup> **and**
- to compensate Verizon for the provision of 911/E-911 services pursuant to the rates set forth in the pricing attachment to the agreement.<sup>19</sup>

This network architecture arrangement was developed by Verizon based on Verizon's determination that this interconnection arrangement provides the most reliable and efficient 911 network.<sup>20</sup> Intrado Comm seeks nothing different when it is the designated 911/E-911 service provider.

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<sup>15</sup> Verizon Template Interconnection Agreement at Interconnection Attachment § 1 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>16</sup> Verizon Template Interconnection Agreement at 911 Attachment § 2.1 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>17</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2.1 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>18</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>19</sup> Verizon Template Interconnection Agreement at 911 Attachment § 4.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>20</sup> WVA Case No. 08-0298-T-PC, *Intrado Communications Inc. and Verizon West Virginia, Inc.*, Hearing Transcript at 205, lines 1-10 (Buckley), available at <http://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=250537&NotType='WebDocket'> ("West Virginia Hearing Transcript").

Interconnection that is at least equal in type, quality, and price to the interconnection arrangements the ILEC provides to itself and others was required of ILECs to ensure effective local competition emerged.<sup>21</sup> The Commission determined that 251(c)(2)(C) interconnection that is *at least* equal in quality to that enjoyed by the ILEC itself, was the minimum requirement.<sup>22</sup> Verizon has recognized in other proceedings that the ILEC-established industry practice is that the POI for connecting to the 911/E-911 network is at the selective router.<sup>23</sup>

This is consistent with the Commission’s finding that the “cost-allocation point” for the exchange of 911/E-911 traffic should be at the selective router.<sup>24</sup> This decision was based on “the nature and configuration of the existing network components used to provide wireline E911 service”<sup>25</sup> and input from PSAPs that asserted the selective router was the appropriate demarcation point for allocating responsibility and associated costs between carriers.<sup>26</sup> Although the finding resulted in “a cost allocation point beyond” the carrier’s switch, the Commission nevertheless found it was appropriate and consistent with industry practice.<sup>27</sup> Thus, the Commission determined that, when a 911 call is made, the carrier must bring the 911 call, as

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<sup>21</sup> S. Rep. No. 104-23, at 20 (1995).

<sup>22</sup> *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, ¶ 225 (1996) (“*Local Competition Order*”).

<sup>23</sup> *See, e.g.*, Verizon Direct Testimony in West Virginia Case No. 08-0298-T-PC at lines 717-718 (filed Sept. 9, 2008), *available at* <http://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=248548&NotType='WebDocket'>.

<sup>24</sup> *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request of King County*, 17 FCC Rcd 14789, ¶ 1 (2002) (“*King County Order*”).

<sup>25</sup> *King County Order* ¶ 4.

<sup>26</sup> *King County Order* at n.4.

<sup>27</sup> *King County Order* ¶ 11.

well as the information about the caller (*i.e.*, the caller's phone number and location) to the 911/E-911 network for processing, and specifically, the equipment that analyzes and distributes the call - the 911 selective router.<sup>28</sup> Based on this Commission precedent, the Public Utilities Commission of Ohio also has confirmed that the point of interconnection should be at the selective router of the 911/E-911 network provider and that an ILEC sending 911/E-911 calls to Intrado Comm PSAP customers is responsible for delivering those 911/E-911 calls to an Intrado Comm selective router location.<sup>29</sup>

Verizon has relied on this method of interconnection for itself to provide Verizon 911 callers access to Verizon PSAP customers, and when interconnecting with CLECs and others for transport of 911/E-911 calls to the appropriate PSAP for many years.<sup>30</sup> For example, where Verizon serves as the 911/E-911 service provider, it requires the CLEC to provide a dedicated connection to each selective router location for the CLEC to complete 911 calls with Verizon Virginia PSAP customers. These POIs are in addition to the POI designated by the CLEC on Verizon's network for the exchange of other 251(c) traffic. Thus, Intrado Comm simply seeks to implement similar types of interconnection arrangements that Verizon and other ILECs have determined to be the most efficient and effective for the termination of emergency calls.<sup>31</sup>

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<sup>28</sup> Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, to Marlys R. Davis, E911 Program Manager, Department of Information and Administrative Services, King County, Washington, WT Docket No. 94-102 (rel. May 7, 2001).

<sup>29</sup> Ohio Case No. 07-1216-TP-ARB, *Petition of Intrado Communications, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with United Telephone Company of Ohio dba Embarq and United Telephone Company of Indiana dba Embarq Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Arbitration Award at 33 (Sept. 24, 2008) ("*Ohio Embarq Arbitration Award*").

<sup>30</sup> *Cf. Local Competition Order* ¶ 204 (finding that existing ILEC arrangements are considered technically feasible arrangements available for interconnection between CLECs and ILECs); *see also id.* ¶ 198 (concluding that "preexisting interconnection" is evidence of technical feasibility).

<sup>31</sup> *Cf. Local Competition Order* ¶ 224 (recognizing that a new entrant cannot effectively compete when the new

The Act entitles Intrado Comm to interconnection “that is at least equal in quality to that provided by the [ILEC] to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection.”<sup>32</sup> The existence of Verizon’s current arrangements demonstrates that such arrangements are the preferred method of interconnection for completing calls to the 911/E-911 service provider and are technically feasible. Verizon is required under 251(c)(2)(C) to make the same arrangement available to Intrado Comm.<sup>33</sup> Verizon cannot use 251(c)(2)(B) to undermine its obligations under 251(c)(2)(C).<sup>34</sup>

The Commission 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.<sup>35</sup> Further, successful interconnection or access at a particular point in a network, using particular facilities, is substantial evidence that interconnection or access is technically feasible at that point *or at substantially similar points in networks employing substantially similar facilities*.<sup>36</sup> In comparing networks, the Commission determined that the substantial similarity of network facilities may be evidenced by their adherence to the same

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entrant cannot obtain interconnection on terms that are as favorable as the ILEC provides to itself ); *see also id.* ¶ 198 (concluding that “preexisting interconnection” is evidence of technical feasibility).

<sup>32</sup> 47 U.S.C. § 251(c)(2)(C).

<sup>33</sup> *Local Competition Order* ¶ 225.

<sup>34</sup> *See, e.g., Rock of Ages Corp. v. Secretary of Labor*, 170 F.3d 148, 155 (2nd Cir. 1999) (“When interpreting a statute or regulation, we are required to read that statute or regulation as a whole”); *U.S. v. Snider*, 502 F.2d 645, 652 (C.A.N.C. 1974) (“We begin with the premise that all parts of the statute must be read together, neither taking specific words out of context nor interpreting one part so as to render another meaningless”) (citing *United States v. American Trucking Ass’n, Inc.*, 310 U.S. 534, 542-43 (1940)).

<sup>35</sup> *Local Competition Order* ¶ 554.

<sup>36</sup> *Local Competition Order* ¶ 204.

interface or protocol standards.<sup>37</sup> Verizon bears the burden of demonstrating the technical infeasibility of a particular method of interconnection or access at any particular point.<sup>38</sup>

Verizon has not made such a showing.

Intrado Comm has also requested that Verizon establish interconnection to a minimum of two, geographically diverse POIs on Intrado Comm's network for reliability and redundancy purposes, and to benefit public safety.<sup>39</sup> Implementation of Intrado Comm's proposal would ensure that 911 calls are diversely routed, which is consistent with the Commission's recommendations.<sup>40</sup> In fact, the Commission is currently reviewing whether it should require the deployment of redundant trunks to each selective router or require that multiple selective routers be able to route calls to each PSAP.<sup>41</sup> Intrado Comm's network designs support both of these considerations. Intrado Comm's proposal is also consistent with the requirements Verizon places on CLECs to diversely route their 911 calls over a minimum of two dedicated trunks to the appropriate Verizon selective routers serving the appropriate Verizon-served PSAP.<sup>42</sup>

Intrado Comm's proposed interconnection arrangement is consistent with the law, promotes public safety, and mirrors the network design Verizon uses to ensure its PSAP

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<sup>37</sup> *Local Competition Order* ¶ 204.

<sup>38</sup> *Local Competition Order* ¶ 554.

<sup>39</sup> Attachment 3, 911 Attachment § 1.3.2.

<sup>40</sup> *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 9 FCC Rcd 6170, ¶ 3, n.6 (1994) ("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).

<sup>41</sup> *VoIP E911 Order* ¶ 59.

<sup>42</sup> Verizon Template Interconnection Agreement at 911 Attachment § 3.2.2 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

customers receive 911 calls from Verizon's own 911 callers and from the 911 callers of other carriers. Accordingly, Intrado Comm's proposed language should be adopted.

**Verizon Position**

Verizon objects to any proposal that would require Verizon to transport 911 calls from Verizon's network to Intrado Comm's selective router for the Intrado Comm-served PSAP. Verizon also opposes undertaking the same trunking activities it has designed for its own 911 caller customers to reach its PSAP customers or that it imposes on CLECs for their 911/E-911 calls to reach Verizon served PSAPs.

**B. ISSUE 2: Inter-Selective Router Trunking (911 Attachment, Section 1.4)**

**Issue Presented**

Whether the Parties should implement inter-selective router trunking and what terms and conditions should govern the exchange of 911/E-911 calls between the Parties?

**Intrado Comm Position**

Inter-selective router trunking allows the automatic number identification ("ANI") and ALI associated with an 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 misdirected calls can be quickly and efficiently routed to the appropriate PSAP along with the caller's location information.

The interoperability currently available to ILECs providing 911/E-911 services must be made available to Intrado Comm when it offers a competing 911/E-911 service product.<sup>43</sup> Interoperability, such as that contemplated by Intrado Comm’s proposed language, falls squarely within the realm of Section 251(c). Section 251(c)(5) of the Act requires ILECs like Verizon to provide public notice of changes in their network “that would affect the interoperability of those facilities and networks.”<sup>44</sup> The importance of interoperability between competing networks is highlighted by the Commission’s rules that ILECs must provide public notice of any changes that “[w]ill affect the incumbent LEC’s interoperability with other service providers.”<sup>45</sup> For the purposes of Section 251(c)(5) and its implementing rules, the Commission defined “interoperability” as “the ability of two or more facilities, or networks, to be connected, to exchange information, and to use the information that has been exchanged.”<sup>46</sup> The Commission determined “that the concepts of seamlessness and transparency are already adequately

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<sup>43</sup> The Commission made similar findings with respect to local number portability and dialing parity. The Commission determined that the 1996 Act required it to “remove the existing operational barriers to enter the local market” because “[v]igorous competition would be impeded by technical disadvantages and other handicaps that prevent a new entrant from offering services that consumers perceive to be equal in quality to the offerings of [ILEC]s.” *Local Competition Order* ¶ 16. In particular, the Commission recognized that local number portability was one of the most significant operational barriers to competition because number portability promotes competition by making it less expensive and less disruptive for a customer to switch providers, thus freeing the customer to choose the local provider that offers the best value. *See id.* ¶ 16, n.11. The Commission determined that the elimination of operational barriers to entry and obstacles preventing consumers from switching service providers was necessary “if there is to be a fair opportunity to compete in the local exchange and exchange access markets.” *Id.* ¶ 18. The same reasoning holds true for inter-selective router trunking.

<sup>44</sup> 47 U.S.C. § 251(c)(5).

<sup>45</sup> 47 C.F.R. § 51.325(a)(2).

<sup>46</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392, ¶ 178 (1996) (“*FCC Interoperability Order*”).

incorporated into” its adopted definition and thus a specific reference to these concepts in the definition were not necessary.<sup>47</sup>

Maintaining the same functionality available today is critical for ensuring PSAP end users are encouraged to take advantage of innovative, facilities-based competitive 911/E-911 services such as those provided by Intrado Comm. This minimum interconnection standard also ensures the goals of the Act to promote competition are not thwarted.<sup>48</sup> The public benefit of diverse and redundant interconnection also is reflected in the Commission’s inquiry as to 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.<sup>49</sup> The best way to effectuate such seamless interoperability is to include provisions requiring inter-selective router trunk groups and PSAP-to-PSAP call transfer in the interconnection agreement.<sup>50</sup>

It is for this reason that the Public Utilities Commission of Ohio (“PUCO”) mandated that (1) Intrado Comm and the ILEC operate in a cooperative manner to ensure that emergency 911 calls continue unimpeded between 911 callers and PSAPs and (2) Intrado Comm implement the

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<sup>47</sup> *FCC Interoperability Order* ¶ 178.

<sup>48</sup> *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.”). In the order implementing the 911 Act, “the Commission also required carriers to implement certain switching and routing changes to their networks. Specifically, the Commission required all carriers to “implement a permissive dialing period, during which emergency calls will be routed to the appropriate emergency response point using either 911 or the seven- or ten-digit number.’ In order to achieve this, carriers had to ‘prepare and modify switches to ‘translate’ the three-digit 911 dialed emergency calls at the appropriate network points to the seven- or ten-digit emergency number in use by those PSAPs, and, subsequently, route the calls to them.’ The Commission also recognized that the transition to 911 in general required more network changes than required by translation.” *VoIP E911 Order* ¶ 34.

<sup>49</sup> *VoIP E-911 Order* ¶ 59.

<sup>50</sup> Attachment 3, 911 Attachment § 1.4.

capability to transfer 911 calls and the associated data across county lines.<sup>51</sup> The PUCO specifically recognized the need for “seamless 911 service” when it mandated that competitive 911/E-911 service providers like Intrado Comm “interconnect” with adjacent county 911 systems.<sup>52</sup> Similarly, a recommended decision from an Administrative Law Judge (“ALJ”) in the Parties’ arbitration proceeding before the Public Service Commission of West Virginia adopted Intrado Comm’s proposed “dial plan” language to ensure each Party had the necessary information to effectuate PSAP-to-PSAP call transfers.<sup>53</sup>

### **Verizon Position**

Verizon opposes language that would require it to deliver 911/E-911 calls being transferred from a Verizon-served PSAP to an Intrado Comm-served PSAP at a POI on Intrado Comm’s network. Verizon also opposes Intrado Comm’s proposed dial plan language, which would ensure interoperability between the Parties’ networks when PSAP-to-PSAP call transfers occur.

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<sup>51</sup> Case No. 07-1199-TP-ACE, *Application of Intrado Communications Inc. to Provide Competitive Local Exchange Services in the State of Ohio*, Finding and Order at Findings 9, 12 (Feb. 5, 2008) (“*Ohio Certification Order*”), Order on Rehearing (Apr. 2, 2008) (“*Ohio Certification Rehearing Order*”).

<sup>52</sup> *Ohio Certification Order* at Finding 12.

<sup>53</sup> Case No. 08-0298-T-PC, *Intrado Communications Inc. and Verizon West Virginia Inc., Petition for Arbitration pursuant to § 252(b) of 47 U.S.C. and 150 C.S.R. 6.15.5*, Arbitration Award, at 16-17 (Nov. 14, 2008) (“*West Virginia ALJ Award*”). The ALJ’s decision is not final. Exceptions to the West Virginia recommended decision were filed November 21, 2008, and a final decision from the full West Virginia commission is expected December 19, 2008.

**C. ISSUE 3: Joint Forecasting (911 Attachment, Section 1.6)**

**Issue Presented**

Whether the forecasting provisions should be reciprocal?

**Intrado Comm Position**

Intrado Comm has revised Verizon's proposed agreement language to make the forecasting provisions applicable to both Parties instead of applicable solely to Intrado Comm.<sup>54</sup> In serving Virginia PSAPs, Intrado Comm must have some indication from Verizon as to how many 911/E-911 trunks will be required to support emergency calls between the Parties' networks to adequately groom its network. Maintaining a high level of service quality requires all carriers to be able to anticipate the demand for network capacity. Forecasts will allow the Parties to work together to ensure that the growth of the Parties' networks is well managed and planned, while meeting industry standards for 911. Given that forecasts will be used to support the mutual exchange of traffic between the Parties, there is no reason the forecasting obligations should not apply equally to both Parties.

The primary purpose of trunk forecasts, especially in the 911 context, is to alert interconnecting parties to anticipated growth plans so that the interconnecting party may engineer, furnish and install the equipment necessary to accommodate such growth. Only Verizon, not the PSAP, has knowledge of Verizon's switch consolidation plans and anticipated line growth expectations, both of which can significantly affect 911 trunk quantity needs. Reciprocal forecasting is even more important in the instant situation when, according to Verizon, a significant majority of the traffic exchanged between the Parties' networks will be

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<sup>54</sup> Attachment 3, 911 Attachment § 1.6.

originated by Verizon's end users dialing 911. Verizon will therefore be in the best position to determine the trunking needs between the Parties' networks.

Other provisions of the interconnection agreement will not provide Intrado Comm with the trunk forecasting information it needs. For example, the agreed-upon language in Section 16 of the General Terms and Conditions addresses forecasts for the "Services" Verizon may purchase from Intrado Comm or "Services" Intrado Comm may purchase from Verizon.<sup>55</sup> Further, the agreed-upon language in Section 1.5.5 of the 911 Attachment requires the Parties to meet to discuss the establishment of new trunk groups, augmentation of existing trunk groups, or the disconnection of existing trunk groups.<sup>56</sup> By contrast, the forecasting language at issue in Section 1.6.2 of the 911 Attachment is specific to the 911/E-911 trunking to be deployed between the Parties' networks to support their exchange of 911/E-911 service traffic. Trunks to be established between the Parties' networks may not fall into the "Services" one Party would purchase from another as contemplated by Section 16 of the General Terms and Conditions. And the discussions required by Section 1.5.5 may not provide Intrado Comm with the same type of information a trunk forecast would provide. Indeed, the fact that Verizon's template interconnection agreement includes each provision is evidence that Verizon believes the contract provisions serve different purposes.

Finally, only Verizon can determine whether calls are being blocked *within its network*, which is a key component to determining whether trunk groups are adequately sized to handle the 911 calls made from an originating office. Intrado Comm would only be able to make such

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<sup>55</sup> Attachment 3, General Terms and Conditions § 16.

<sup>56</sup> Attachment 3, 911 Attachment § 1.5.5.

determinations if its PSAP customers received complaints from callers who were unable to complete their 911 call attempt, which many 911 callers fail to report. Accordingly, Intrado Comm's proposed language should be adopted.

**Verizon Position**

Verizon argues that it should not be required to provide forecasts to Intrado Comm because Intrado Comm's PSAP customers are in the best position to determine the number of 911 trunks that will be necessary between the Parties' networks. Verizon also argues that other provisions of the interconnection agreement will provide Intrado Comm with the trunking information it needs.

**D. ISSUE 4: Initiating Interconnection (911 Attachment, Section 1.5)**

**Issue Presented**

What terms and conditions should govern how the Parties will initiate interconnection?

**Intrado Comm Position**

Verizon's proposed language requires Intrado Comm to provide certain notices and other information to Verizon when Intrado Comm seeks to establish interconnection arrangements with Verizon.<sup>57</sup> This information includes the location of the POIs, the activation date, and an initial forecast. Intrado Comm has revised this language to make it reciprocal.<sup>58</sup> In areas in which Intrado Comm is the 911/E-911 service provider, Intrado Comm will require the same type of information from Verizon to effectuate the Parties' interconnection arrangement. As interconnected co-carriers, the Parties will need to exchange information about their networks to

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<sup>57</sup> Attachment 3, 911 Attachment § 1.5.

<sup>58</sup> Attachment 3, 911 Attachment § 1.5.

ensure the network implemented is reliable, redundant, and diverse. Intrado Comm's proposed language should be adopted.

### **Verizon Position**

Verizon rejects Intrado Comm's proposed language because Verizon believes that it is not required to interconnect with Intrado Comm at a POI on Intrado Comm's network.

## **II. 911 AND E-911 SERVICES**

### **A. ISSUE 5: 911/E-911 Call Routing (911 Attachment Sections 1.3, 1.4, 1.7.3)**

#### **Issue Presented**

How should the Parties route 911/E-911 calls to each other?

#### **Intrado Comm Position**

Intrado Comm has proposed language to address how Verizon will route 911/E-911 traffic to Intrado Comm's network when Intrado Comm is the designated 911/E-911 service provider. Following Verizon's practices for itself, Intrado Comm has also proposed language requiring Verizon to implement certain minimum arrangements for routing 911/E-911 calls destined for Intrado Comm's PSAP customers.<sup>59</sup> This includes providing the requisite number of diversely routed 911/E-911 trunks, engineering the 911/E-911 trunks pursuant to industry recommended grades of service, monitoring 911/E-911 trunk volumes, and coordinating testing and maintenance activities for 911/E-911 trunks between the Parties' networks.<sup>60</sup> Intrado Comm

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<sup>59</sup> Attachment 3, 911 Attachment § 1.3.4.

<sup>60</sup> Attachment 3, 911 Attachment § 1.3.

relied upon Verizon's template interconnection agreement language for Intrado Comm's proposed language to cover this arrangement.<sup>61</sup>

In addition, Intrado Comm proposes that Verizon use dedicated trunking from its end offices to Intrado Comm's selective routers to route Verizon's end users' 911 calls destined for Intrado Comm's PSAP customers. Direct, dedicated trunking to the selective router serving the PSAP provides the most reliable and redundant 911/E-911 network, as evidenced by Verizon's use of direct trunking arrangements within its own network when it is the 911/E-911 service provider.<sup>62</sup> Verizon recognizes that service quality and industry standards call for the use of dedicated connections.<sup>63</sup> It is for this reason that Verizon does not unnecessarily switch its customers' 911/E-911 calls before delivering those calls to Verizon's PSAP customers. Inserting another stage of switching in the call processing path introduces the possibility of additional points of failure thereby undermining the reliability provided by dedicated trunking.

Verizon uses dedicated trunking within its own network to route 911 calls from its end user customers to its PSAP customers. Verizon also requires competitors seeking to terminate their end users' 911 calls to Verizon's PSAP customers to use dedicated trunking to deliver the 911 call to the designated Verizon selective router.<sup>64</sup> Intrado Comm's proposed language is consistent with Verizon's own practices and industry standards calling for the use of dedicated trunking for 911 traffic. The equal in quality requirements of Section 251(c)(2) also support

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<sup>61</sup> See generally Verizon Template Interconnection Agreement at 911 Attachment § 3 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

<sup>62</sup> West Virginia Hearing Transcript at 205, lines 4-10 (Buckley).

<sup>63</sup> West Virginia Hearing Transcript at 208, lines 18-25 (D'Amico).

<sup>64</sup> See generally Verizon Template Interconnection Agreement at 911 Attachment § 3 (Attachment 5 to Intrado Comm VSCC Petition for Arbitration).

Intrado Comm's proposed language. The Commission has determined that "Verizon must provide [Intrado Comm] interconnection with [a 911-related switch] 'at least equal in quality' to the interconnection Verizon provides itself for routing 911 and E-911 calls."<sup>65</sup> Verizon's attempt to impose differing interconnection arrangements on its end users' 911 calls destined for Intrado Comm's PSAP customers than Verizon uses within its own network violates the equal in quality requirements of the Act.<sup>66</sup>

If Verizon is permitted to relegate Intrado Comm to a different and lesser form of interconnection than what Verizon provides to itself, Verizon will be discriminating against its Virginia customers who dial 911. Verizon customers trying to reach a PSAP served by Intrado Comm will be treated differently than Verizon customers trying to reach a PSAP served by Verizon, which is a violation of the non-discrimination requirements found in Section 202 of the Act.<sup>67</sup> Verizon's proposal seeks to relegate Intrado Comm to a lesser form of interconnection than what it provides to itself, which in turn results in Verizon discriminating in the provision of 911 services between its similarly situated customers. Intrado Comm's proposed interconnection method, by contrast, is consistent with the method Verizon uses for itself, that ILECs have developed for themselves, and that ILECs require CLECs to utilize in a competitive market. If competition for PSAP customers is to have any chance of succeeding, Intrado Comm must have interconnection arrangements that are at least equal to what Verizon provides and requires for

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<sup>65</sup> *Virginia Arbitration Order* ¶ 652.

<sup>66</sup> 47 U.S.C. § 251(c)(2)(C); 47 C.F.R. § 51.305(a)(3).

<sup>67</sup> 47 U.S.C. § 202.

itself as the monopoly 911/E-911 service provider to PSAPs today. Accordingly, Intrado Comm's proposed language should be adopted.

### **Verizon Position**

Verizon argues that it should be able to determine how it will route Verizon end user 911/E-911 calls through Verizon's network for delivery to Intrado Comm, so that the calls can be completed by Intrado Comm to an Intrado Comm-served PSAP. In routing 911/E-911 calls to the POI, Verizon believes it should be able to use the selective routers that Verizon currently uses to route all 911/E-911 calls from Verizon end users (and end users of third party carriers) to the PSAPs that serve those end users, regardless of the service quality issues this causes. Furthermore, it expects Intrado Comm to accept this lesser architectural arrangement when, for itself, Verizon requires CLECs to directly interconnect at every Verizon selective router to complete 911/E-911 calls to the appropriate Verizon PSAP customers.

**B. ISSUE 6: Components of the 911/E-911 System (911 Attachment, Section 1.1.1)**

### **Issue Presented**

Whether 911 Attachment Section 1.1.1 should include reciprocal language describing both Parties' 911/E-911 facilities?

### **Intrado Comm Position**

The interconnection agreement is not limited to Intrado Comm's obligations, rights and responsibilities when Verizon is the 911/E-911 service provider. The interconnection agreement addresses Verizon's obligations, rights and responsibilities when Intrado Comm is the 911/E-911 service provider as well. Verizon has proposed language describing what components comprise

Intrado Comm's 911/E-911 system, but has refused to accept reciprocal language for itself.<sup>68</sup> If the interconnection agreement lists what components comprise Intrado Comm's 911/E-911 service offering and network, the interconnection agreement should contain a reciprocal listing of Verizon's 911/E-911 service offering and network components as well. This is consistent with the *West Virginia ALJ Award's* determination that Intrado Comm's proposed language should be adopted.<sup>69</sup>

### **Verizon Position**

Verizon claims that the language proposed by Intrado Comm may not accurately describe Verizon's network arrangements and capabilities even though Intrado Comm's proposed language is the same as Verizon's language to be applied to Intrado Comm.

### **C. ISSUE 7: 911 Databases (911 Attachment, Section 1.2.1)**

#### **Issue Presented**

Whether the agreement should contain provisions with regard to the Parties maintaining ALI steering tables, and, if so, what those provisions should be?

#### **Intrado Comm Position**

Intrado Comm has proposed language that would require the Parties to work cooperatively to maintain the necessary ALI steering tables to ensure that accurate and updated ALI information is displayed when a wireless, IP-enabled or VoIP 911/E-911 call is transferred between the Parties' networks.<sup>70</sup> Interoperability ensures selective router-to-selective router call transfers may be performed in a manner that allows misdirected emergency calls to be

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<sup>68</sup> Attachment 3, 911 Attachment § 1.1.1.

<sup>69</sup> *West Virginia ALJ Award* at 21.

<sup>70</sup> Attachment 3, 911 Attachment § 1.2.1.

transferred to the appropriate PSAP, irrespective of the 911 service provider. These transferred calls must retain the critical caller location information associated with the call (*i.e.*, ALI).

Without the necessary ALI steering tables and the associated exchange of information between the Parties, the mutual exchange of 911/E-911 service traffic cannot occur when 911/E-911 calls need to be transferred between PSAPs served by different 911/E-911 networks. Interconnection agreements are intended to address specifically the mutual exchange of traffic between the Parties' networks, and ALI steering provisions are an integral part of the Parties' interconnection relationship.<sup>71</sup>

Intrado Comm's language would require Intrado Comm and Verizon to work cooperatively and store the pANI numbers associated with adjacent PSAPs in each Party's respective ALI steering tables.<sup>72</sup> Absent inclusion of Intrado Comm's proposed language, if the PSAP receiving the call transfer is interconnected with a 911/E-911 network that is separate from that of the PSAP performing the call transfer, the pANI number associated with the caller would not be contained in the ALI steering tables of the PSAP receiving the call and the location of the caller could not be automatically retrieved. Thus, adoption of Intrado Comm's proposed language will permit a PSAP who receives a call transfer associated with a wireless or nomadic VoIP call to also receive the necessary ALI information to ensure the caller's emergency is addressed adequately.

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<sup>71</sup> See generally *FCC Interoperability Order* ¶ 178.

<sup>72</sup> Wireless and IP-enabled service providers provide 911 calling capabilities to their end users through the use of pANI numbers employed for use in determining which PSAP the 911 call is to be terminated to, as well as for the retrieval of the ALI associated with the caller.

Failure to include Intrado Comm’s proposed language in the interconnection agreement will have a significant effect on Virginia PSAPs. As many as 30-40 percent of wireless 911 calls **routinely** require transfer to another PSAP, regardless of the 911/E-911 service provider involved. Without the language requested by Intrado Comm, Virginia PSAPs opting for a competitive 911 provider will lose the ability to receive a call transfer with ALI from a Verizon served PSAP, and Verizon served PSAPs will also be unable to receive a call transfer with ALI from a PSAP served by a competitive provider. Accordingly, Intrado Comm’s proposed language should be adopted.

**Verizon Position**

Verizon insists that the Parties negotiate a separate commercial agreement to govern communications between the Parties’ ALI databases.

**D. ISSUE 8: 911 and E-911 Related Definitions (Glossary, Sections 2.6, 2.64, 2.94, 2.95)**

**Issue Presented**

Whether certain definitions related to the Parties’ provision of 911/E-911 Service should be included in the interconnection agreement and what definitions should be used?

**Intrado Comm Position**

There are six definitions at issue between the Parties: (1) definition of “Automatic Number Information” or “ANI”; (2) definition of “911/E-911 Service Provider”; (3) definition of “911 Tandem/Selective Router”; (4) definition of “Point of Interconnection or “POI”; (5) definition of “Verizon 911 Tandem/Selective Router”; and (6) definition of “Verizon 911 Tandem/Selective Router Interconnection Wire Center.” The issues between the Parties with

respect to the definition of “911/E-911 Service Provider” and the definition of “POI” deal with the location of the POI and are addressed under Issue 1.

Intrado Comm’s proposed definition of “ANI” is consistent with NENA, as it comes from the NENA Master Glossary.<sup>73</sup> Intrado Comm proposed that this term and definition be included in the interconnection agreement because the term is used in Intrado Comm’s proposed language in other sections of the interconnection agreement. Intrado Comm has also proposed a definition for “911 Tandem/Selective Router” to indicate that the equipment both routes and terminates originating end traffic user 911/E-911 calls to a PSAP and transfers 911/E-911 calls between PSAPs.<sup>74</sup> Intrado Comm’s proposed language accurately reflects the functions that will be performed by a 911 Tandem/Selective Router. This language is consistent with the Commission’s recognition that a selective router terminates 911/E-911 calls to a PSAP.<sup>75</sup> In addition, it is well-established that selective routers are used to transfer 911/E-911 calls between PSAPs. Intrado Comm’s proposed language should be adopted.

Finally, Verizon’s proposed definitions for “Verizon 911 Tandem/Selective Router” and “Verizon 911 Tandem/Selective Router Interconnection Wire Center” are repetitive of the general definitions for those terms and unnecessary. To the extent the interconnection agreement needs to state that the 911 Tandem/Selective Router belongs to Verizon, it will be sufficient to say “a Verizon 911 Tandem/Selective Router” without developing a separate definition for the term. This is consistent with the *West Virginia ALJ Award*’s determination that Verizon’s

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<sup>73</sup> Attachment 3, Glossary § 2.6; *see also NENA Master Glossary of 911 Terminology*, Version 11, at 17 (May 16, 2008).

<sup>74</sup> Attachment 3, Glossary § 2.64.

<sup>75</sup> *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request of King County*, 17 FCC Rcd 14789, ¶ 1 (2002).

proposed definitions were “superfluous since there is already a definition of 911 tandem/selective router” in the interconnection agreement.<sup>76</sup> Accordingly, Intrado Comm’s proposed language should be adopted.

**Verizon Position**

Verizon does not dispute the substance of Intrado Comm’s proposed “ANI” definition. Instead, Verizon disagrees with Intrado Comm’s proposed language in other sections of the interconnection agreement and thus does not think inclusion of the term is necessary. Verizon also has indicated that it prefers its proposed definitions because they reflect the structure of Verizon’s network and the location and operation of 911 Tandem/Selective Routers in Verizon’s network.

**E. ISSUE 9: Verizon’s Ability to Bypass Intrado Comm and Directly Send 911/E-911 Calls to Intrado Comm’s PSAP Customer (911 Attachment, Section 2.5)**

**Issue Presented**

Should 911 Attachment Section 2.5 be reciprocal and qualified as proposed by Intrado Comm?

**Intrado Comm Position**

Verizon has proposed language that would allow Verizon to deliver directly 911/E-911 calls to one of Intrado Comm’s PSAP customers.<sup>77</sup> Intrado Comm has proposed deleting this language. Originally, Intrado Comm had proposed that the language be reciprocal and be qualified to give both Parties the ability to deliver 911/E-911 calls to the other Party’s PSAP

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<sup>76</sup> *West Virginia ALJ Award* at 17-18.

<sup>77</sup> Attachment 3, 911 Attachment § 2.5.

customer if, and only if, the PSAP or Controlling 911 Authority has authorized direct routing of 911/E-911 calls by that Party. Verizon rejected this proposal, and instead proposed language purporting to address Intrado Comm's concerns for reciprocity.<sup>78</sup> Verizon's language, however, would still allow it to bypass the Intrado Comm selective router and deliver 911/E-911 calls directly from its end offices to a PSAP served by Intrado Comm. Neither Party should be permitted to route 911/E-911 service traffic in this manner without express permission from the PSAP. The Verizon-proposed provision is not reciprocal and contains additional limitations, such as whose facilities are to be used to deliver the 911/E-911 call.

Therefore, the language should be stricken or, at a minimum, be reciprocal and qualified to reflect that such arrangements are driven by the PSAP, the customer of record. This is consistent with the *West Virginia ALJ Award's* determination that Verizon's proposed language should be rejected, and if there is a legitimate reason for either Verizon or Intrado Comm to directly route 911 calls to PSAPs served by the other, those reasons and conditions must be clearly spelled out in the interconnection agreement.<sup>79</sup>

### **Verizon Position**

Verizon refuses to include language indicating that direct interconnection must be authorized by the PSAP.

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<sup>78</sup> Attachment 3, 911 Attachment § 2.6.

<sup>79</sup> *West Virginia ALJ Award* at 28.

### III. PRICING

#### A. **ISSUE 10: Rates to be Charged for 911/E-911 Services (911 Attachment, Sections 1.3, 1.4, 1.7; Pricing Attachment, Sections 1.3, 1.5; Appendix A)**

##### **Issue Presented**

What should Verizon charge Intrado Comm for 911/E-911 related services and what should Intrado Comm charge Verizon for 911/E-911 related services?

##### **Intrado Comm Position**

**Verizon Charges.** Intrado Comm's proposed language eliminates references to Verizon's unspecified tariffs where applicable.<sup>80</sup> State retail tariffs are not the appropriate mechanism for determining what Verizon may charge Intrado Comm for interconnection-related services under the Parties' interconnection agreement.<sup>81</sup> Pricing for interconnection and network elements is to be developed pursuant to the pricing standards contained in Section 252(d) of the Act.<sup>82</sup> Intrado Comm cannot effectively compete with Verizon without specific pricing set forth in the interconnection agreement. Intrado Comm needs to know its operating costs. Intrado Comm cannot agree to just any pricing for services needed to implement interconnection. PSAPs generally seek providers who can provide them consistent service and pricing over a term of years. Intrado Comm's proposed language ensures that each Party's ability to impose charges on the other Party is limited to the requirements in the interconnection agreement and the rates contained in the Pricing Attachment.

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<sup>80</sup> Attachment 3, 911 Attachment §§ 1.3, 1.4, 1.7, Pricing Attachment §§ 1.3, 1.5, Appendix A.

<sup>81</sup> *Southwestern Bell Tel., L.P. v. Missouri Pub. Serv. Comm'n*, 530 F.3d 676, 684 (8th Cir. 2008).

<sup>82</sup> 47 U.S.C. §§ 251(c)(2), (c)(3), 252(d)(1); *Local Competition Order* ¶ 628.

If there are non-252(d)(1) services that Intrado Comm would purchase from Verizon, those services and the pricing for those services must be identified in the interconnection agreement. If the relevant pricing for non-252(d)(1) services is set forth in a tariff, the interconnection agreement should contain a specific reference to the tariff for that service rather than a generic reference to “applicable” tariffed rates as Verizon’s proposed language would allow. Intrado Comm’s proposed language should therefore be adopted.<sup>83</sup>

**Intrado Comm Charges.** Intrado Comm has proposed “port” or termination charges to be included in the Parties’ interconnection agreement to govern instances in which Verizon brings its end users’ 911 calls to Intrado Comm’s network for termination to Intrado Comm’s PSAP customers.<sup>84</sup> Verizon imposes trunk port or termination charges on carriers seeking to terminate 911/E-911 services on its network. When Intrado Comm acts as the 911/E-911 service provider, it imposes similar port or termination charges on all providers connecting to Intrado Comm’s network. The Ohio commission determined that Intrado Comm’s proposed port or termination rates are “reasonable” and “are not beyond the range of other companies.”<sup>85</sup> Intrado Comm’s proposed language should be adopted.

### **Verizon Position**

Verizon argues that the Parties should rely on Verizon’s tariffs to determine the rates the Parties should charge for interconnection, despite the requirements for establishing such pricing

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<sup>83</sup> Attachment 3, 911 Attachment §§ 1.3, 1.4, 1.7, Pricing Attachment §§ 1.3, 1.5, Appendix A.

<sup>84</sup> Attachment 3, Appendix A.

<sup>85</sup> Ohio Case No. 08-537-TP-ARB, *Petition of Intrado Communications Inc. for Arbitration pursuant to Section 252(b) of the Communications Act of 1934, as Amended, to Establish an Interconnection Agreement with Cincinnati Bell Telephone Company*, Arbitration Award (Oct. 8, 2008) (“*Ohio CBT Award*”).

and the competitive disadvantage that would result. Verizon also opposes inclusion of Intrado Comm's proposed rates in the interconnection agreement.

**B. ISSUE 11: Incorporation and Application of Tariff Rates (General Terms and Conditions, Section 1.1; 911 Attachment, Sections 1.3, 1.4.2, 1.7.3; Pricing Attachment, Sections 1.3, 1.5; Appendix A)**

**Issue Presented**

Whether all "applicable" tariff provisions shall be incorporated into the agreement; whether tariffed rates shall apply without a reference to the specific tariff; whether tariffed rates may automatically supersede the rates contained in the Pricing Attachment, Appendix A without a reference to the specific tariff; and whether the Verizon proposed language in the Pricing Attachment Section 1.5 with regard to "TBD" rates should be included in the agreement?

**Intrado Comm Position**

Intrado Comm objects to Verizon's proposed language that would incorporate all "applicable" tariff provisions into the interconnection agreement.<sup>86</sup> Intrado Comm seeks certainty in the Parties' interconnection relationship and cannot agree to unspecified terms and conditions that Verizon may later determine are "applicable" to the services being offered in the interconnection agreement. The *West Virginia ALJ Award* agreed with Intrado Comm and found that

If Verizon intends to charge Intrado for a particular service, it ought to be able to figure out what tariff contains that charge or service. All tariffs which might generate charges to Intrado must be specifically listed in the Agreement or the Pricing Attachment.<sup>87</sup>

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<sup>86</sup> Attachment 3, General Terms and Conditions §§ 1.1, 911 Attachment § 1.3, 1.4.2, 1.7.3, Pricing Attachment §§ 1.3, 1.5; Appendix A.

<sup>87</sup> *West Virginia ALJ Award* at 24.

The West Virginia ALJ also determined that references to tariffs in phrases such as “notwithstanding any other provision of this Agreement **or tariff**” or “as set out in **Verizon’s applicable tariffs**” must be eliminated from the interconnection agreement.<sup>88</sup> Accordingly, Intrado Comm’s proposed language should be adopted.

In addition, tariff charges should not be permitted to trump those interconnection-related charges contained in the Pricing Appendix without a specific reference in the Pricing Appendix. Any charges to be imposed by either Party should be specifically set forth in the Pricing Appendix to the interconnection agreement. The West Virginia ALJ ruled that charges stated in the interconnection agreement cannot be automatically superseded by subsequent tariff changes as would be permitted by Verizon’s proposed language because doing so would be inconsistent with Commission mandates.<sup>89</sup> The Wireline Competition Bureau has specifically rejected Verizon’s attempt to impose similar language, finding that rates contained in the pricing schedule to the interconnection agreement cannot be secondary to rates contained in a filed tariff.<sup>90</sup> Indeed, the Bureau determined that, unless the parties otherwise agree, it would be inappropriate for “a tariff to supersede an interconnection agreement.”<sup>91</sup> Tariffs that are “approved or allowed to go into effect” should not supersede rates approved in an arbitrated interconnection agreement.<sup>92</sup> Adoption of Verizon’s language would “thwart [Intrado Comm]’s statutory right to ensure that the new rates comply with the requirements of sections 251 and 252” because the

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<sup>88</sup> *West Virginia ALJ Award* at 24.

<sup>89</sup> *West Virginia ALJ Award* at 24.

<sup>90</sup> *Virginia Arbitration Order* ¶ 608.

<sup>91</sup> *Virginia Arbitration Order* ¶ 608.

<sup>92</sup> *Virginia Arbitration Order* ¶ 600.

tariffed rates “would not be the subject of a determination under section 252.”<sup>93</sup> Intrado Comm’s proposed language should therefore be adopted.

### **Verizon Position**

Verizon argues that it should be permitted to arbitrarily determine which tariffs apply to the services being purchased by Intrado Comm under the interconnection agreement even if those tariffs do not reflect Section 252 pricing for interconnection-related services. In addition, Verizon seeks to trump pricing contained in the interconnection agreement with “applicable” tariff pricing.

#### **C. ISSUE 12: Restrictions on Intrado Comm Rates (Pricing Attachment, Section 2)**

### **Issue Presented**

Whether Verizon may require Intrado Comm to charge the same rates as, or lower rates than, the Verizon rates for the same services, facilities, and arrangement?

### **Intrado Comm Position**

Verizon has proposed language that would require Intrado Comm to charge Verizon the same rates as, or lower rates than, the rates Verizon charges Intrado Comm for the same services, facilities, and arrangements.<sup>94</sup> Intrado Comm objects to Verizon’s attempt to cap Intrado Comm’s rates. Verizon’s proposed language is one-sided and may have the effect of forcing Intrado Comm to lower its rates without competitive justification. Intrado Comm is under no obligation to charge the same rates as Verizon for interconnection-related services, other than in limited circumstances such as reciprocal compensation, as the Bureau and several other state

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<sup>93</sup> *Virginia Arbitration Order* ¶ 601.

<sup>94</sup> Attachment 3, Pricing Attachment §§ 2; Appendix A.

commissions have already determined.<sup>95</sup> Indeed, the *West Virginia ALJ Award* also rejected Verizon's proposed language based on the prior Bureau precedent.<sup>96</sup> Therefore, Intrado Comm's proposed language should be adopted.<sup>97</sup>

### **Verizon Position**

Verizon seeks to limit the rates Intrado Comm may impose on Verizon for "comparable" services.

#### **D. ISSUE 13: Waiver of 911 Related Charges (911 Attachment Sections 1.7.2, 1.7.3)**

### **Issue Presented**

Should the waiver of charges for 911 call transport, 911 call transport facilities, ALI Database, and MSAG be qualified as proposed by Intrado Comm by other provisions of the Agreement?

### **Intrado Comm Position**

Intrado Comm's proposed language ensures that each Party's ability to bill the other Party is limited to the requirements in the interconnection agreement and the rates contained in the Pricing Attachment to the agreement.<sup>98</sup> This language does not address intercarrier compensation for transport and termination. Rather, this language ensures that each Party may

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<sup>95</sup> See, e.g., *Virginia Arbitration Order ¶¶ 581-89*; Case 99-C-1389, *Petition of Sprint Communications Company L.P., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Intercarrier Agreement with Bell-Atlantic New York Inc.*, Order Resolving Arbitration Issues, at 10 (N.Y.P.S.C. Jan. 28, 2000); Docket No. 00-10-22, *Petition of Cablevision Lightpath-CT, Inc. for Arbitration*, Decision, at 4 (CT DPUC Apr. 11, 2001); Docket No. TO01080498, *Petition of Cablevision Lightpath-NJ, Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon New Jersey Inc.*, Order Approving Interconnection Agreement (NJ BPU Mar. 1, 2002).

<sup>96</sup> *West Virginia ALJ Award* at 25.

<sup>97</sup> Attachment 3, Pricing Attachment §§ 2; Appendix A.

<sup>98</sup> Attachment 3, 911 Attachment §§ 1.7.2, 1.7.3.

bill the other Party appropriate interconnection-related charges for their exchange of 911/E-911 calls to the extent permitted by the interconnection agreement. Intrado Comm's proposed language should be adopted.

### **Verizon Position**

Verizon is opposed to the qualification on the waiver of charges proposed by Intrado Comm. It argues that Intrado Comm's language potentially undercuts the agreement of the Parties that neither will bill the other for transport of 911/E-911 calls.

#### **E. ISSUE 14: Reservation of Rights to Bill Charges (911 Attachment, Sections 2.3, 2.4)**

### **Issue Presented**

Should the reservation of rights to bill charges to 911 Controlling Authorities and PSAPs be qualified as proposed by Intrado Comm by "To the extent permitted under the Parties' Tariffs and Applicable Law?"

### **Intrado Comm Position**

Intrado Comm's proposed language ensures that neither Party may operate outside VSCC-approved rates or VSCC regulation for their retail services to PSAPs.<sup>99</sup> Without Intrado Comm's suggested qualification, Verizon would have free reign to bill Virginia public safety agencies for a range of services even if Verizon no longer provided those services. Intrado Comm's proposed language would not prevent Verizon from imposing lawful charges on Virginia PSAPs as authorized by state or federal law, VSCC-approved tariffs, or VSCC rules and regulations. Nor is Intrado Comm attempting to restrict Verizon's ability to charge PSAPs to

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<sup>99</sup> Attachment 3, 911 Attachment §§ 2.3, 2.4

which **Verizon will continue to provide services**. Intrado Comm is seeking to ensure that Verizon does not charge Virginia PSAPs for services that Verizon will no longer provide when Intrado Comm is the designated 911/E-911 service provider.<sup>100</sup> Intrado Comm's proposed language should be adopted.<sup>101</sup>

### **Verizon Position**

Verizon argues Intrado Comm's proposed qualification is not appropriate because whether a Party is able to bill PSAPs under its tariffs and applicable law is a matter between the Party and government agencies and is outside the scope of the agreement.

## **IV. MISCELLANEOUS**

### **A. ISSUE 15: Intrado Comm's Right to Amend the Agreement (General Terms and Conditions, Section 1.5)**

#### **Issue Presented**

Should Intrado Comm have the right to have the agreement amended to incorporate provisions permitting it to exchange traffic other than 911/E-911 calls?

#### **Intrado Comm Position**

In order to reach a negotiated interconnection agreement, Intrado Comm and Verizon decided to limit the interconnection agreement to only those initial services Intrado Comm needs to provide its competitive 911/E-911 services in Virginia. Intrado Comm, however, is authorized

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<sup>100</sup> See, e.g., Florida Docket No. 090089-TP, *Petition for Declaratory Statement Regarding Local Exchange Telecommunications Network Emergency 911 Service*, by *Intrado Communications Inc.*, Order No. PSC-08-0374-DS-TP (Fla. P.S.C. June 4, 2008) ("The law is clear that telecommunications companies may not charge for services they do not provide. Section 364.604(2) provides that '[a] customer shall not be liable for any charges for telecommunications or information services that the customer did not order or that were not provided to the customer.'"); see also *Ohio Embarq Arbitration Award* at 42 ("the Commission agrees with Intrado that Embarq should have no right to charge Ohio counties for services the company no longer provides").

<sup>101</sup> Attachment 3, 911 Attachment §§ 2.3, 2.4.

to provide any type of competitive local exchange or telephone exchange service in Virginia and may seek to provide additional telephone exchange services in the future. Recognizing that it might offer additional telephone exchange services in Virginia, Intrado Comm has proposed language that would allow Intrado Comm to seek to amend the interconnection agreement to include any additional arrangements that would be necessary to facilitate Intrado Comm's provision of other telephone exchange services.<sup>102</sup> If Intrado Comm decides to offer additional telephone exchange services, the Parties should build on their existing agreement and incorporate any additional provisions necessary to support the provision of the additional services Intrado Comm decides to offer. In addition, Intrado Comm's language ensures that Intrado Comm is not forced to re-negotiate, re-litigate, or re-arbitrate provisions that have already been resolved by the Parties or by the Commission consistent with previous Commission findings.<sup>103</sup> Intrado Comm's proposed language should be adopted.<sup>104</sup>

### **Verizon Position**

Verizon appears to believe that an agreement cannot be amended and seeks to require Intrado Comm to terminate the agreement and negotiate an entirely new agreement in which all of the provisions of the agreement will be at issue again.

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<sup>102</sup> Attachment 3, General Terms and Conditions § 1.5.

<sup>103</sup> *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 19 FCC Rcd 13494, ¶ 28 (2004) ("any carrier attempting to arbitrate issues that have previously been resolved in an arbitration solely to increase another party's costs would be in violation of the duty to negotiate in good faith and could be subject to enforcement").

<sup>104</sup> Attachment 3, General Terms and Conditions § 1.5.

**B. ISSUE 16: Use of Term “a caller” (911 Attachment, Section 1.1.1)**

**Issue Presented**

Should the Verizon proposed term “a caller” be used to identify what entity is dialing 911, or should this term be deleted, as proposed by Intrado Comm?

**Intrado Comm Position**

Intrado Comm proposes to delete Verizon’s proposed reference to “a caller” in its entirety.<sup>105</sup> There is no reason for a general description of “911/E-911 Arrangements” to include reference to the entity dialing 911. 911/E-911 arrangements include callers and those receiving the call. Verizon appears to be trying to inappropriately limit the definition of 911/E-911 arrangements. Intrado Comm’s proposed language should be adopted.

**Verizon Position**

Verizon insists that for Section 1.1.1 to be clear, it should use the term “caller” as proposed by Verizon.

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<sup>105</sup> Attachment 3, 911 Attachment § 1.1.1.