

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

In the Matter of)
)
Petition of Intrado Communications)
of Virginia Inc. for Arbitration)
Pursuant to Section 252(b) of the) WC Docket No. 08-33
Communications Act of 1934, as)
amended, to Establish an)
Interconnection Agreement with)
Central Telephone Company of)
Virginia and United Telephone -)
Southeast, Inc.)

In the Matter of)
)
Petition of Intrado Communications)
of Virginia Inc. for Arbitration)
Pursuant to Section 252(b) of the) WC Docket No. 08-185
Communications Act of 1934, as)
amended, to Establish an)
Interconnection Agreement with)
Verizon South Inc. and Verizon)
Virginia Inc.)

**VERIZON VIRGINIA INC.’S RESPONSE TO SIXTH CONSOLIDATED
STATUS REPORT OF INTRADO COMMUNICATIONS OF VIRGINIA INC.**

The Sixth Consolidated Status Report (“Report”) Intrado filed on February 26, 2009, misstated the basis for a Proposed Arbitration Decision (“PAD”), issued February 13, 2009, by the Administrative Law Judges (“ALJs”) in Intrado’s arbitration with Illinois Bell Telephone Company (“AT&T”) in Illinois.¹ The Report also made incorrect

¹ *Petition for Arbitration Pursuant to Section 252(b) of the Comm. Act of 1934, as Amended, to Establish an Interconnection Agreement with Illinois Bell Tel. Co.*, Proposed Arbitration Decision, No. 08-0545 (Ill. Commerce Comm’n Feb. 13, 2009 decision marked as Attachment 2 to Intrado’s Sixth Report).

statements about Verizon's agreement to hold in abeyance its arbitrations with Intrado in Delaware and North Carolina.

The Illinois PAD concludes that "Intrado's proposed 911 service is not telephone exchange service within the meaning of § 153(47) of the Federal Act; therefore, AT&T has no duty under subsection 251(c)(2) of the Federal Act to interconnect with Intrado" and "no interconnection should be required under subsection 251(c)(2)". PAD at 22. Intrado claims that: "In part, the ALJs' decision was based on the lack of definitive guidance from the FCC or federal courts on the issue of whether the provision of 911/E911 services to public safety agencies constitutes 'telephone exchange service' qualifying for Section 251(c) interconnection". Report at 2.

The PAD was not, in fact, "based on" any lack of guidance from the FCC or federal courts. It was, instead, based on a thorough analysis of FCC decisions interpreting the statutory definition of "telephone exchange service," 47 U.S.C. § 153(47). *See* PAD at 5-17. The ALJs expressed no lack of confidence in their ruling on the threshold issue and no reservations about making that ruling before the Bureau issues its decision in this Virginia arbitration with Verizon and Embarq. On the contrary, the ALJs stated: "We will not defer this proceeding to the FCC we believe that, like the Florida Commission, we have correctly interpreted and applied the Federal Act by concluding that Intrado's proposed 911 service is not telephone exchange service within the meaning of the federal definition." PAD at 20.

The quoted material Intrado relies upon in characterizing the Illinois PAD is not (as it would appear from Intrado's filing) a single passage, but fragments strung together from two non-consecutive pages and a footnote near the end of the PAD, all after the

ALJs' analysis of the legal issue of Intrado's right to section 251(c) interconnection.²

Read in context, it is clear that the ALJs' references to the Bureau's anticipated decision are not in any way a "basis" for the PAD. The ALJs simply recognize that Intrado may be expected to re-file a petition for arbitration with the Illinois Commission if the Bureau or the FCC itself rules in Intrado's favor on the threshold issue. PAD at 18, 20 n. 20.

In addition, Intrado makes incorrect statements about Verizon's agreement to hold in abeyance its arbitrations with Intrado in Delaware and North Carolina. With respect to both proceedings, Intrado states:

In light of the Illinois ALJs' decision that the FCC or a federal court needs to rule on Intrado Comm's entitlement to Section 251(c) interconnection, Intrado Comm and Verizon have agreed to hold the arbitration in abeyance pending a decision from the Bureau/Commission in this consolidated arbitration.

Report at 3 (emphasis added).

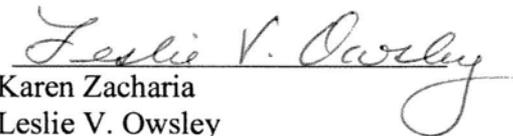
This statement is wrong. As discussed, the Illinois ALJs did not make any "decision" that the FCC or a federal court needs to rule on the issue of Intrado's entitlement to section 251(c) interconnection. So Verizon's agreement to hold in abeyance the North Carolina and Delaware arbitrations was certainly not based on any such non-existent "decision," as Intrado suggests. Indeed, the Illinois PAD was *not mentioned at all* by either Intrado's or Verizon's counsels in their discussion of the abeyances, so it could not have served as a basis for their agreement to those abeyances.

Finally, Verizon disagrees with Intrado's argument that "certain states are relying on a perceived lack of definitive guidance from the FCC or the federal courts on this threshold legal issue to erect a barrier to entry on Intrado Comm's competitive provision

² See PAD at 18, 20 and n. 62. Intrado incorrectly stated that the quote it uses appears at 18 and 19 of the PAD. Report at 3-4 n. 3.

of 911 services to public safety agencies in those states.” Report at 3. On the contrary, the states that have dismissed Intrado’s arbitrations are not doing so because of any reliance on any perceived lack of guidance from the FCC or the courts, but on the existing guidance of FCC decisions interpreting relevant federal law. These states are not erecting any barriers to entry to Intrado’s competitive provision of 911 services; they are, instead, correctly recognizing that Intrado chose the wrong vehicle to pursue that competitive entry. Intrado’s resources would be better directed to negotiating reasonable commercial interconnection arrangements than pursuing arbitration of unreasonable interconnection terms to which it has no right under section 251(c). Verizon stands ready to negotiate such arrangements.

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March 3, 2009

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of March, 2009, I served a copy of the foregoing by the method indicated below to the following individuals:

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