

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

In the Matter of	)	
	)	
Petition of Intrado Communications of Virginia Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934 to Establish an Interconnection Agreement with Verizon, South Inc. and Verizon Virginia Inc.	)	WC Docket No. 08-185
	)	
	)	
Petition of Intrado Communications of Virginia Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934 to Establish an Interconnection Agreement with Central Telephone Company of Virginia and United Telephone – Southeast, Inc. (Collectively “Embarq”)	)	WC Docket No. 08-33
	)	

**REPLY COMMENTS OF  
THE UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTelecom)<sup>1</sup> submits these comments in the above captioned proceedings.<sup>2</sup> The underlying proceedings in this instance impact a discrete group of entities,<sup>3</sup> and focus on a narrowly defined issue (*i.e.*, interconnection between parties). While the determination of this inquiry will ultimately play out within the borders of a single state, Virginia, the significance of an FCC decision that includes an examination of competition policy could have a profound impact on a broad range of stakeholders across the country, including the general public and a vast array of public safety agencies. Moreover, the Commission’s broader inquiry into competition issues will implicate issues regarding the

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<sup>1</sup> USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks.

<sup>2</sup> These comments are submitted in response to, Public Notice, *Comment Sought on Competitive Provision of 911 Service Presented by Consolidated Arbitration Proceedings*, DA-09-1262, June 4, 2009.

<sup>3</sup> Specifically, this proceeding has arisen in the context of consolidated arbitration proceedings between Intrado Communications of Virginia, Inc. (Intrado), Central Telephone Company of Virginia and United Telephone – Southeast, Inc., and Verizon South Inc. and Verizon Virginia Inc.

integrity of emergency networks and capabilities of numerous public safety agencies.

USTelecom's reply comments address three areas of concern: the need for a focused proceeding, the matter of 911 system security and integrity, and the nature of effective competition in this arena.

## **I. DISCUSSION**

First, USTelecom maintains that an issue of such significance as 911 competition warrants initiation of a rulemaking or notice of inquiry proceeding by the Commission. Matters of public safety are a core mission of -- and founding principle for -- the Federal Communications Commission.<sup>4</sup> The Commission fulfills this core purpose through, among other things, its stewardship of the nation's 911/E911 networks. While such matters have always been its domain, in the years since September 11, 2001, issues regarding public safety and national security have gained increased prominence at the Commission.<sup>5</sup>

An arbitration proceeding is simply not the appropriate forum for the Commission to consider broader policy issues relating to public safety. While the underlying proceeding must resolve the threshold -- and narrow -- issue of whether Intrado is entitled to interconnection in Virginia, the Commission's consideration of broader public safety issues should be addressed in a more thorough and deliberative rulemaking or notice of inquiry proceeding. Moreover, as dictated by statute, the Commission in the instant proceeding "stands in the shoes of the Virginia Commission for the limited purpose of deciding the interconnection disputes that were the

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<sup>4</sup> 47 U.S.C. §151. *See also* AT&T Comments, p. 2.

<sup>5</sup> In the last two three years alone, the FCC has established a central bureau to address these issues, implemented various advisory committees and reporting systems, and conducted several proceedings on matters intended to further strengthen and enhance the security and reliability of the nation's communications infrastructure and public safety and emergency response capabilities.

subject of the Virginia Commission proceeding.”<sup>6</sup> It would therefore be inconsistent with statutory authority<sup>7</sup> and existing precedent for the Commission to undertake a broader policy inquiry as part of this narrow arbitration proceeding.<sup>8</sup>

The Commission has undertaken more thorough and deliberative rulemaking or notice of inquiry proceedings where its expertise and authority for setting national standards is paramount.<sup>9</sup> In matters of national security and public safety, it is particularly important in order to ensure that all relevant stakeholders – local, state and federal public safety agencies, communications providers, competitive system service providers – are afforded an opportunity to participate. In the instant proceeding, it is imperative that such thorough and careful analysis be undertaken due to the broad nature of the issue being addressed, and its applicability well beyond the confines of this limited docket.

Second, USTelecom encourages the Commission to give substantial deference to the integrity and security of the 911 Network over other interests in this proceeding. Today’s emergency networks are facing escalating demands from both the general public and an increasing and vast array of public safety entities. With the rapid progression of technology, the

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<sup>6</sup> Verizon Comments, pp. 2-3; *see also*, Embarq Comments, p. 6.

<sup>7</sup> 47 U.S.C. §252(e)(5) (stating that “[i]f a State commission fails to act to carry out its responsibility under this section in any proceeding . . . the Commission shall issue an order preempting the State’s jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State commission under this section with respect to the proceeding or matter and act for the State commission.”).

<sup>8</sup> Order, *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*, 17 FCC Rcd. 27039, ¶ 3 (2002).

<sup>9</sup> *See e.g.*, Order, *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, EB Docket 06-119, WC Docket 06-63, 22 FCC Rcd. 10541 (2007), Order on Reconsideration, *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, EB Docket 06-119, WC Docket 06-63, 22 FCC Rcd. 18013 (2007).

public is increasingly accessing the nation's 911/E911 system through diverse mobile platforms and IP-based networks and devices.<sup>10</sup>

At the same time, public safety agencies are placing increasing demands on the network to ensure integration with multiple entities (*e.g.*, hospitals) operating across numerous platforms during countless response scenarios. This increased interoperability between public safety agency stakeholders coupled with the surging interaction with the network by the general public warrants thorough and careful attention by the Commission. As the Public Utilities Commission of Ohio notes, there is "legitimate concern regarding how the existence and operations of a competitive 911 carrier affects the public interest in a reliable, efficient and effective 911 network."<sup>11</sup>

USTelecom therefore urges the Commission to exercise caution and prudence as it assesses Intrado's request. In particular, implementation of Intrado's proposal could adversely impact the integrity and stability of the 911/E911 system, and hinder the ability of telecommunications providers to successfully execute emergency service calls. Among other things, concerns have been raised regarding Intrado's need for call sorting technology.<sup>12</sup> For example, some have raised the possibility that 911/E911 callers may be unable to communicate with Intrado-served public safety access points (PSAPs), unless a reliable call-sorting method is developed.<sup>13</sup>

Finally, USTelecom maintains that facilities-based competition in the 911/E911 marketplace is what will drive greater innovation in the marketplace while fostering more

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<sup>10</sup> See *e.g.*, AT&T Comments, p. 5; Joint Comments of the Texas Commission on State Emergency Communications, *et. al.*, July 6, 2009, p. 3.

<sup>11</sup> Comments of the Public Utilities Commission of Ohio, p. 6.

<sup>12</sup> See *e.g.*, Verizon Comments, p. 11.

<sup>13</sup> *Id.*

reliable networks for use by public safety agencies and the general public. As the Commission has previously acknowledged, government mandated interconnection with price regulated unbundling will stall deployment and development of such services.<sup>14</sup> Unfortunately, Intrado seeks implementation of a competitive model that the Commission has deemed to be the least effective, so that it may deploy a service that the Commission -- and the general public -- view as essential.

USTelecom supports the introduction of competitive 911/E911 services into the marketplace. Any such competition, however, should be on a competitively neutral basis, free from the competitively restrictive confines of government mandated interconnection and/or price-regulated unbundling. The Commission has long maintained that facilities-based competition is the ideal forum for introducing more effective competition in the marketplace, resulting in greater benefits for consumers.<sup>15</sup> Such facilities-based competition will foster the growth and innovation in the 911/E911 marketplace to the benefit of consumers and public safety agencies.

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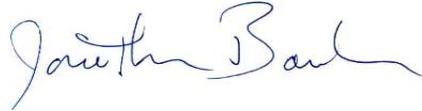
<sup>14</sup> See e.g., Report and Order and Order on Remand and FNPRM, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, 18 FCC Rcd. 16978, 16984 (2003) (noting that “excessive network unbundling requirements tend to undermine the incentives of both incumbent LECs and new entrants to invest in new facilities and deploy new technology.”).

<sup>15</sup> See, e.g., Report and Order, *Promotion of Competitive Networks in Local Telecommunications Markets*, 23 FCC Rcd. 5385, ¶2 (2008) (noting that 1996 Telecommunications Act was designed to eliminate barriers to facilities-based competition); Order on Remand, *In the Matter of Unbundled Access to Network Elements*, 20 FCC Rcd. 2533, 2535, ¶3 (2005) (adopting rules intended to “spread the benefits of facilities-based competition to all consumers”); Report and Order on Remand and Further Notice of Proposed Rulemaking, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978, 17025, ¶70 (2003) (noting that facilities-based competition serves the Act’s overall goals); Notice of Proposed Rulemaking, *In the Matter of Performance Measurements and Standards for Unbundled Network Elements and Interconnection*, 16 FCC Rcd 20641, 20644-45, ¶5 (2001) (stating that “facilities-based competition, of the three methods of entry mandated by the Act, is most likely to bring consumers the benefits of competition in the long run”).

## **II. CONCLUSION**

USTelecom strongly encourages the Commission to initiate a more deliberative and thorough proceeding in order to better examine the broader issues of 911/E911 deployment. Issues that could potentially impact the integrity and reliability of the 911/E911 service warrant nothing less.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I, Meena Joshi, do certify that on July 21, 2009, the aforementioned Comments Of The United States Telecom Association was delivered via email to the following parties.

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