

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

In the Matter of the Petition of Intrado Inc. for)	
Arbitration Pursuant to Section 252(b) of the)	
Communications Act of 1934, as amended, to)	Docket No. 08-0545
Establish an Interconnection Agreement with)	
Illinois Bell Telephone Company d/b/a)	
AT&T Illinois)	

Reply Brief of Intrado Inc.

Craig W. Donaldson
Senior Vice President – Regulatory Affairs

Rebecca Ballesteros
Associate Counsel

Intrado Inc.
1601 Dry Creek Drive
Longmont, CO 80503
720-494-5800 (telephone)
720-494-6600 (facsimile)

Chérie R. Kiser
Angela F. Collins
Cahill Gordon & Reindel LLP
1990 K Street, NW, Suite 950
Washington, D.C. 20006
202-862-8900 (telephone)
202-862-8958 (facsimile)
ckiser@cgrdc.com
acollins@cgrdc.com

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Its Attorneys

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CERTIFICATE OF SERVICE

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Reply Brief of Intrado Inc.

Intrado Inc. (“Intrado”), by its attorneys, hereby submits its Reply Brief in connection with Intrado’s Petition for Arbitration (“Petition”) to Establish an Interconnection Agreement with Illinois Bell Telephone Company d/b/a AT&T Illinois (“AT&T”) pursuant to Section 252(b) of the Communications Act of 1934, as amended (“Act”).¹ The Illinois Commerce Commission (“Commission”) should adopt Intrado’s positions and proposed interconnection agreement language as set forth herein and in Intrado’s Initial Brief for the unresolved issues between the Parties.

INTRODUCTION

AT&T’s Initial Brief demonstrates that AT&T seeks to continue to use its monopoly position as a dominant provider of 911/E911 services to Illinois public safety agencies and public service answering points (“PSAPs”)² to impede Intrado’s entry into the market. AT&T’s apparent objective is to prevent competition in contravention of the goals of the Act and Illinois law. The opening of the local exchange market to competition via Section 251(c) was “intended

¹ 47 U.S.C. § 252(b).

² For ease of reference, Intrado uses the term “PSAP” to refer to any Illinois public safety agency, Emergency Telephone System Board, or other entity that may be responsible for purchasing 911/E911 services to ensure consumers living in the relevant geographic area can reach emergency responders.

to pave the way for enhanced competition in all telecommunications markets, by allowing all providers to enter all markets.”³ This includes the provision of 911/E911 services to PSAPs.

Despite AT&T’s attempt to shield its monopoly from competition, Illinois public safety agencies are legally entitled to choose a competitive provider such as Intrado.⁴ Intrado, however, cannot offer its competitive 911/E911 product without establishing the necessary interconnection and interoperability arrangements with incumbent local exchange carriers (“ILECs”) like AT&T pursuant to Section 251(c) of the Act. As demonstrated in Intrado’s Initial Brief, Intrado’s competitive 911/E911 service offering meets the definition of “telephone exchange service” for purposes of Section 251(c)(2).⁵ Indeed, Commission Staff agrees that Intrado has the right to interconnect with AT&T pursuant to Section 251(c) to provide competitive 911/E911 services to Illinois public safety agencies.⁶ The Commission therefore has the authority to compel AT&T to interconnect with Intrado and to arbitrate the outstanding issues between the Parties.

This proceeding is about 911 service despite AT&T’s claims to the contrary.⁷ The interconnection arrangements established between the Parties as a result of this arbitration proceeding will have a direct effect on the quality of service provided to Illinois public safety agencies, and consequently, to Illinois consumers. Section 251(c) contemplates and allows for Intrado’s interconnection proposals for the competitive provision of 911 service to PSAPs.⁸

While existing 251(c) requirements and Commission precedent may have focused on

³ *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, ¶ 4 (1996) (“*Local Competition Order*”) (emphasis added) (intervening history omitted), *aff’d by AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).

⁴ ILL. ADMIN CODE TIT. 83, § 725.500(c)(2); *see also* Direct Testimony of Marci Schroll on behalf of the Staff of the Illinois Commerce Commission at 5, lines 103-08 (Staff Hearing Exhibit 3) (hereinafter “Schroll”).

⁵ Intrado Brief at 12-21.

⁶ Staff Brief at 10.

⁷ AT&T Brief at 1.

⁸ *Cf.* AT&T Brief at 39-40; Staff Brief at 5-6.

interconnection for plain old telephone service (“POTS”) traffic, those findings do not alter the mandate of the Act to ensure the best competitive network interconnection architecture arrangements for the competitive provision of 911/E911 service to PSAPs. Section 251(c) was designed to ensure local competition was achieved by creating a level playing field between the new entrant and the monopoly provider.⁹

What is the current playing field for the provision of 911/E911 services to PSAPs? The only provider of those services in the AT&T service territory is AT&T. Thus, AT&T’s own practices have established the standard for service to PSAPs and defined the appropriate network arrangements to be used for the exchange of 911/E911 traffic in a competitive market - direct dedicated connections to the selective router serving the PSAP to which the 911 call is directed.¹⁰ There is no support in the law for the use of a different type of arrangement when Intrado is 911/E911 system provider serving the PSAP.

AT&T itself has decided that 911 interconnection arrangements should be different from those used for POTS traffic, and AT&T is required to give Intrado the same arrangements it provides to *itself* when AT&T is serving the PSAP.¹¹ To find otherwise would undermine the entire foundation of Section 251(c) - to ensure competitors receive interconnection that “is at least indistinguishable from that which the incumbent provides itself.”¹² Indeed, it would be foolish for this proceeding to ignore the existing arrangements used for the provision of 911/E911 service to PSAPs today.

⁹ Intrado Brief at 23-27.

¹⁰ See, e.g., Direct Testimony of Thomas W. Hicks on behalf of Intrado Inc. at Exhibit 1 (Intrado Hearing Exhibit 1) (hereinafter “Hicks Direct”) (providing relevant portions of AT&T template interconnection agreement).

¹¹ 47 U.S.C. § 251(c)(2)(C).

¹² *Local Competition Order* ¶ 224.

AT&T cannot use Section 251(c)(2)(B) as applied to POTS traffic to undermine its equal in quality obligations under 251(c)(2)(C). With respect to 911 traffic, AT&T has ignored 251(c)(2)(B)'s requirements and has adopted contract arrangements for competitive local exchange carriers ("CLECs") that support a different network architecture for 911 calls to promote public safety. The interconnection arrangements sought by Intrado here are the same that AT&T and other ILECs have established for themselves to serve PSAP customers and are the standard of interconnection to be applied pursuant to Section 251(c)(2)(C) under a request for interconnection to provide competitive 911 services to PSAPs. These arrangements are also consistent with the Commission's regulations for 911/E911 services to PSAPs.¹³ The Commission therefore has the authority to adopt the physical architecture arrangements Intrado seeks, which reflect industry practices established by ILECs like AT&T and are consistent with Section 251(c) and the Commission's rules for the provision of 911/E911 services.

In addition, Intrado's other language proposals are reasonable and necessary to support mutual cooperation and collaboration between the Parties, and AT&T has not shown otherwise. Accordingly, Intrado's proposed language should be adopted for inclusion in the Parties' interconnection agreement to ensure the Parties work together as co-carriers so that Illinois public safety agencies and Illinois citizens dialing 911 receive the most reliable, redundant, and diverse 911 network possible.

¹³ See generally ILL. ADMIN CODE TIT. 83, § 725.500.

ARGUMENT

I. ISSUE 1: DOES INTRADO HAVE THE RIGHT TO INTERCONNECTION WITH AT&T UNDER SECTION 251(C) OF THE ACT FOR INTRADO'S PROVISION OF COMPETITIVE 911/E911 SERVICES TO PSAPS?

Intrado's competitive 911/E911 service falls squarely within the Act's definition of "telephone exchange service"¹⁴ as that definition has been interpreted by the Federal Communications Commission ("FCC") and the Commission. AT&T has presented no reason for the Commission to deviate from these rulings. Nor has AT&T presented any support for its request that the Commission refuse to act in this arbitration proceeding. AT&T's arguments are only a further attempt to ignore precedent and block competition, and thus should be rejected.

A. AT&T's Arguments Ignore the Underlying Purpose for the Inclusion of "Telephone Exchange" in 251(c)

In its Initial Brief, AT&T conveniently loses sight of why Section 251(c)(2) includes the limitation that interconnection may only be provided to carriers offering telephone exchange service or exchange access service. The purpose for including the "telephone exchange service" limitation in 251(c) should not be forgotten or overlooked. It does not exist to require an analysis of each local service offered by a carrier, but rather was included to ensure long distance carriers did not attempt to avail themselves of 251(c) interconnection in an effort to circumvent access charges.¹⁵ Congress balanced the stick of 251(c) – additional obligations necessary to ensure equal bargaining power for the opening of local markets – with the carrot of the right of ILECs to provide long distance service under Section 271.¹⁶ Now that AT&T has the rights of

¹⁴ 47 U.S.C. § 153(47).

¹⁵ *Local Competition Order* ¶ 188.

¹⁶ *Local Competition Order* ¶ 55.

271, it seeks to further limit its obligations under 251(c) to promote competition for a local service where no competition exists today.

Congress's determination to add Part (B) of the "telephone exchange" definition in the 1996 Act is further evidence of its intent to broaden the inclusion of the services that would fall within the telephone exchange limitation in 251(c). As discussed below, the FCC determined that Part B was added to ensure that the definition was not limited to traditional voice telephony, but included other, non-traditional means of communicating information.¹⁷ The definition of telephone exchange service is not limited to services that are market substitutes for two-way switched voice service, and substitutability for traditional voice service is not a criterion for determining whether a service falls with the definition of telephone exchange service.¹⁸ These underlying principles support a finding that Intrado's 911/E911 service to PSAPs falls squarely within the definition of telephone exchange service.

B. Intrado's 911/E911 Service Satisfies Each Prong of the Telephone Exchange Service Definition

AT&T's attempt to dissect and limit the definition of telephone exchange service does not change the nature of Intrado's planned service offering to Illinois public safety agencies. Each argument raised by AT&T was fully addressed in Intrado's Initial Brief. Intrado has met its "burden to prove" that it will provide telephone exchange service,¹⁹ and therefore is entitled to Section 251(c) interconnection with AT&T.

Intrado's service is a "telephone exchange service" under the plain terms of the Act and the FCC's interpretation of that definition in the *Advanced Services Order* and the *DA Call*

¹⁷ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd 385, ¶ 17 (1999) ("*Advanced Services Order*").

¹⁸ *Advanced Services Order* ¶ 31.

¹⁹ *Cf.* AT&T Brief at 4.

Completion Order.²⁰ AT&T's assertion that Intrado's service must allow PSAPs to communicate with "all other" subscribers to be classified as telephone exchange service is wrong.²¹ The FCC has stated that a service is a telephone exchange service if it:

- "provides customers with the capability of intercommunicating with other subscribers;"²²
- "permits a community of interconnected customers to make calls to one another;"²³
- allows for "'intercommunication' among subscribers within a local exchange area;"²⁴
- includes any "means of communicating information within a local area;"²⁵
- "permit[s] communications among subscribers within an exchange or within a connected system of exchanges;"²⁶
- "'allows a local caller at his or her request to connect to another local telephone subscriber;"²⁷ and
- permits "the provision of individual two-way voice communication by means of a central switching complex to interconnect all subscribers within a geographic area."²⁸

Intrado's service meets the requirements found in each of these FCC pronouncements.²⁹

Importantly, however, none of these statements contains a requirement that Intrado's PSAP customer be required to "communicate with all other" subscribers as espoused by AT&T.³⁰

²⁰ Intrado Brief at 12-20.

²¹ AT&T Brief at 6, 7 (citing *Advanced Services Order* ¶ 20).

²² *Advanced Services Order* ¶ 23.

²³ *Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended*, 16 FCC Rcd 2736, ¶ 17 (2001) ("*DA Call Completion Order*").

²⁴ *Advanced Services Order* ¶ 30.

²⁵ *Advanced Services Order* ¶ 17.

²⁶ *Advanced Services Order* ¶ 20.

²⁷ *DA Call Completion Order* ¶ 21.

²⁸ *Advanced Services Order* ¶ 20.

²⁹ Intrado Brief at 12-20.

³⁰ AT&T Brief at 6.

AT&T's reliance on what has transpired in other states should also be rejected.³¹ Intrado has not admitted that its service does not allow PSAPs to originate calls.³² To the contrary, the record *in this proceeding* is clear that Intrado's 911/E911 service permits its PSAP customers to intercommunicate with AT&T's customers and allows for the origination and termination of communications:

Q: Using Intrado service, can Intrado's PSAP customer ever pick up the phone and get fresh dial tone and initiate a call to another PSAP or to anyone else?

A: Yes.

Q: How would that happen?

A: Through a call transfer hook flash, either through selective transfer or 10 digit POTS transfer. . . . the call process has two parts. You have the consumer, the citizen who is dialing 911. The PSAP receives the call and then the PSAP originates the transfer. So it's originating the call through the hook flash, either the selective transfer feature or the 10 digit transfer feature and it's originating the call.

. . . .

Q: An Intrado PSAP customer can transfer a call to another PSAP?

A: Yes.

Q: But transferring a call is the not the same as originating a call; is that right?

A: You originate the call within the transfer.

. . . .

Q: An Intrado PSAP customer can also conference in another PSAP on the call; is that right?

A: Yes.

Q: And is it your testimony that conferencing in another PSAP is the same as originating a call?

³¹ AT&T Brief at 6, 8-9.

³² Cf. AT&T Brief at 8.

A: If you use the hook flash, similar to what I described on the types of transfers and you keep the originating caller on the phone, along with the extended agency on the phone, yes.³³

Given the record in this proceeding, which AT&T does not and cannot refute, AT&T's reliance on irrelevant and misinterpreted statements made in other arbitration proceedings should be rejected.³⁴

AT&T is also wrong when it claims that Intrado does not offer telephone exchange service because Intrado may hand-off a 911 call to another provider.³⁵ AT&T misconstrues the FCC's findings in the *DA Call Completion Order*. In that decision, the FCC determined that a directory assistance provider is not considered to be providing telephone exchange service if it hands off the call to another carrier and the other carrier charges the calling party for completion of the call.³⁶ In the case of 911/E911 services, however, the calling party is never charged for the 911 call as AT&T itself admits.³⁷ In the case of a call transfer, Intrado's PSAP customer would be charged by Intrado for that service (either as part of the bundled service package the PSAP receives or as a separate charge depending on the circumstances).

AT&T's arguments regarding the exchange area and exchange charge portions of the telephone exchange service definition are equally misplaced.³⁸ As explained in Intrado's Initial Brief,³⁹ Intrado's service is not required to operate within ILEC exchange boundaries to qualify as telephone exchange service because the FCC has found that the telephone exchange service

³³ Transcript at 109-13 (Spence-Lens).

³⁴ AT&T Brief at 8-9. AT&T cites to a decision of the Florida commission in support of its arguments. Intrado, however, has filed a motion for reconsideration of that decision, which is attached (Attachment 1) and can be found at <http://www.psc.state.fl.us/dockets/cms/docketFilings2.aspx?docket=070736>.

³⁵ AT&T Brief at 10.

³⁶ *DA Call Completion Order* ¶ 22.

³⁷ AT&T Brief at 12.

³⁸ AT&T Brief at 11-12.

³⁹ Intrado Brief at 16-17.

definition “does not require a specific geographic boundary.”⁴⁰ Further, Intrado’s service meets the “exchange service charge” element of the definition because Intrado’s PSAP customers will obtain “the ability to communicate within the equivalent of an exchange area as a result of entering into a service and payment agreement with” Intrado.⁴¹ Indeed, the FCC has determined “that any charges” assessed for a service could be considered the “exchange service charge.”⁴²

AT&T is also wrong when it claims that Florida is the only state to have ruled on whether Intrado’s 911/E911 service is a telephone exchange service.⁴³ As discussed in Intrado’s Initial Brief, the Ohio commission specifically determined that Intrado’s competitive 911/E911 service to PSAPs is a telephone exchange service.⁴⁴ And the Public Staff of the North Carolina Utilities Commission (“Public Staff”) recommended that the full North Carolina commission find Intrado’s competitive 911/E911 service to PSAPs constitutes telephone exchange service pursuant to Section 251 of the Act because such a finding is supported by the FCC’s *Advanced Services Order* and the fact that “AT&T itself has treated 911/E911 service or other service with similar characteristics as telephone exchange services.”⁴⁵

More importantly, this Commission itself previously determined that the service offered by Intrado’s predecessor, SCC Communications, was a telephone exchange service for purposes

⁴⁰ *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, 13 FCC Rcd 20599, ¶ 30 (1998) (“*BellSouth Louisiana II Order*”).

⁴¹ *Advanced Services Order* ¶ 27.

⁴² *Advanced Services Order* ¶ 27.

⁴³ AT&T Brief at n.7.

⁴⁴ Intrado Brief at 32; *see also* Ohio 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 Finding 7 (Feb. 5, 2008) (“*Ohio Certification Order*”), Order on Rehearing (Apr. 2, 2008) (“*Ohio Certification Rehearing Order*”).

⁴⁵ NCUC Docket No. P-1187, Sub 2, *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 BellSouth Telecommunications, Inc. d/b/a AT&T North Carolina*, Proposed Recommended Arbitration Order of the Public Staff at 9 (filed Oct. 10, 2008) (“NCUC Public Staff Proposed Order”) (Intrado Cross Exhibit 3).

of Section 251(c).⁴⁶ AT&T cannot ignore this precedent.⁴⁷ As Staff recognizes, “the Commission has already addressed and disposed of this question.”⁴⁸ AT&T should not be permitted to twist the Commission’s findings in the *Illinois SCC Order* for its own use or seek reconsideration of that decision out of time in this case. The Commission was not “mostly concerned” with whether SCC was a telecommunications carrier as AT&T claims.⁴⁹ Rather, the Commission devoted more than three pages of its decision to a discussion of whether SCC provided telephone exchange service.⁵⁰ Nor did the Commission ignore FCC precedent as AT&T suggests.⁵¹ SCC cited to the *Advanced Services Order* in its filings,⁵² and the Commission specifically cited a predecessor decision to the *Advanced Services Order*, in which the FCC made similar findings as those set forth in the later decision.⁵³ Intrado therefore agrees with Staff - AT&T has not “provided persuasive arguments to cause the Commission to depart

⁴⁶ Docket No. 00-0769, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, Arbitration Decision at 6 (Mar. 21, 2001) (“*Illinois SCC Order*”). This decision was consistent with similar decisions by the Texas and California commissions with respect to SCC’s services. See Intrado Brief at 32; see also Texas Docket No. 23378, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996, to Establish an Interconnection Agreement with SBC Communications*, Order No. 8 Denying Motion to Dismiss (Jan. 4, 2002) (“*Texas SCC Order*”); California Decision No. 01-09-048, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, Opinion Affirming Final Arbitrator’s Report and Approving Interconnection Agreement (C.P.U.C. Sept. 20, 2001) (“*California SCC Order*”).

⁴⁷ Cf. AT&T Brief at 12-13.

⁴⁸ Staff Brief at 9.

⁴⁹ AT&T Brief at 13.

⁵⁰ *Illinois SCC Order* at 3-6.

⁵¹ AT&T Brief at 13.

⁵² See, e.g., Docket No. 00-0769, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, SCC Communications Corp.’s Opposition to Ameritech Illinois’ Motion to Dismiss Petition for Arbitration (filed Dec. 22, 2000).

⁵³ *Illinois SCC Order* at 5 (citing *Deployment of Wireline Service Offering Advanced Telecommunications Capability*, 14 FCC Rcd 4761 (1998)).

form[sic] or alter its previous decision on this matter.”⁵⁴

C. Provisions Contained in Intrado’s Tariff Do Not Change the Classification of Intrado’s 911/E911 Service to PSAPs

As explained in Intrado’s Initial Brief, the terms and conditions set forth in Intrado’s tariff have no bearing on whether Intrado’s 911/E911 service to PSAPs qualifies as telephone exchange service under the Act.⁵⁵ Under Illinois law, 911 trunks are *required* to be deployed as one-way incoming only trunks to the PSAP, and general outbound dialing on 911 circuits is prohibited.⁵⁶ Presumably this limitation is in place to ensure that 911 lines are not being used for administrative or non-emergency calls so that 911 callers can always reach the PSAP in an emergency. Intrado’s tariff recognizes this and contains provisions requiring the PSAP to obtain additional local exchange service for administrative or non-emergency calls to ensure 911 circuits are always available for Illinois citizens’ 911 calls. Indeed, AT&T and other ILECs’ 911 tariffs contain the same type of conditions.⁵⁷ The tariff provisions relied on by AT&T are therefore inapplicable to the classification of Intrado’s 911/E911 service as a telephone exchange service.

⁵⁴ Staff Brief at 10.

⁵⁵ Intrado Brief at 20-21. AT&T refers to Intrado’s Ohio tariff. On November 17, 2008, Intrado filed a similar tariff in Illinois.

⁵⁶ ILL. ADMIN CODE TIT. 83, § 725.500(d).

⁵⁷ Direct Testimony of Carey F. Spence-Lenss on behalf of Intrado Inc. at Exhibit No. 3 (Intrado Hearing Exhibit 4) (hereinafter “Spence-Lenss Direct”); Illinois Bell Telephone Company Ill. C.C. No. 20, Part 8, Section 3, 1st Revised Sheet No. 10 (effective November 11, 1996) (911 service “is not intended to be a total replacement of the telephone service of the various public safety agencies”); *id.* 1st Revised Sheet No. 13 (public safety agency customer must “subscribe to local exchange service at the PSAP location for administrative purposes, for placing outgoing calls, and for receiving non-911 calls”); *see also, e.g.*, Verizon North, Inc. General Exchange Tariff, Ill. C.C. No. 9, Section 9, Original Sheet No. 2 (effective June 24, 1993) (“9-1-1 Service is restricted to one-way incoming emergency service only.”).

D. The Commission Should Proceed with the Arbitration Proceeding

AT&T's request for the Commission to refuse this arbitration is confusing and inconsistent with the law.⁵⁸ On one hand, AT&T claims that this case presents "novel issues regarding 911 network and routing arrangements" and thus the Commission should not proceed with the arbitration.⁵⁹ At the same time, AT&T argues that "this is not a case about 911 service" and instead is an "arbitration between a requesting carrier and an ILEC regarding a request for interconnection under Section 251(c)(2)."⁶⁰ AT&T cannot have it both ways. As Staff has noted, Intrado's service offering may raise additional issues to be reviewed and considered by the Commission, but this does not change the fact that the Commission can make decisions in this two-party arbitration for the purposes of forming an interconnection agreement between the Parties.⁶¹ AT&T's attempt to further delay the advent of competition in the Illinois 911 market by erecting additional barriers to entry should be rejected.⁶²

⁵⁸ Cf. AT&T Brief at 14-15.

⁵⁹ AT&T Brief at 15.

⁶⁰ AT&T Brief at 1.

⁶¹ Staff Brief at 7.

⁶² Intrado does not agree that the Commission's authority to conduct this arbitration is discretionary. Cf. AT&T Brief at 15. State commissions have the "responsibility" under Section 252 to arbitrate and resolve any open issues in connection with interconnection negotiations once requested to do so. See *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366, 385 (1999) (finding that Section 252 of the Act entrusts state commissions jurisdiction over interconnection agreements); *Global Naps, Inc. v. FCC*, 291 F.3d 832, 838 (D.C. Cir. 2002) (noting that it is "the state agency's responsibility to make a determination – that is, to mediate, to arbitrate, to approve, and (possibly) to interpret and enforce an interconnection agreement"). Congress realized that competitors could not enter the market without interconnection agreements and wanted to ensure that state commissions acted quickly and efficiently in response to arbitration requests. See *Armstrong Communications, Inc. Petition for Relief Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996 and Request for Additional Relief*, 13 FCC Rcd 871, ¶ 11 (1998) (recognizing Congress established a specific statutory scheme for negotiating and arbitrating interconnection agreements). It is for this reason that the authority of state commissions may be preempted when a commission "fails to act to carry out its responsibility" under Section 252. See 47 U.S.C. § 252(e)(5).

E. Use of a Commercial Agreement for the Parties' Interconnection Relationship Is Not Appropriate

AT&T's proposal that Intrado can operate pursuant to a non-Section 251(c) agreement with AT&T should likewise be rejected.⁶³ As explained in Intrado's Initial Brief,⁶⁴ acceptance of AT&T's position would obliterate the regulatory framework for 911 services established by Part 725 of the Commission's rules and is inconsistent with the Commission's prior findings regarding the public interest benefits of regulating 911 services. Part 725 recognizes the possibility of competitive 911/E911 system providers in Illinois.⁶⁵ Interconnection with AT&T is the first step Intrado must take before it provides competitive 911/E911 services in Illinois.⁶⁶ Interconnection with the PSTN is an essential component to providing 911/E911 services to PSAPs.⁶⁷ Using a non-251(c) agreement as suggested by AT&T, however, would eliminate the Commission's ability to oversee the first step of Intrado's provision of competitive 911/E911 services to Illinois public safety agencies.

Further, as "a matter of public safety," the Commission has already determined that competitive 911/E911 services should be regulated because the "public interest is protected when [Intrado's] services are regulated."⁶⁸ Regulation via a Section 251(c) agreement is appropriate because it is "of the utmost importance that the continuance and quality of a 9-1-1 call be

⁶³ AT&T Brief at 15. AT&T's reference to the current commercial agreement between the Parties is irrelevant. *See* AT&T Brief at 3. This agreement does not govern the provision of 911/E911 services to PSAPs and does not provide Intrado with the connection to the PSTN it needs to provide its services in Illinois. *See* Transcript at 140, line 17 to 141, line 11 (Pellerin).

⁶⁴ Intrado Brief at 28-30.

⁶⁵ ILL. ADMIN CODE TIT. 83, § 725.500(c)(2).

⁶⁶ Direct Testimony of Jeffrey H. Hoagg on behalf of the Staff of the Illinois Commerce Commission at 6, lines 103-04 (Staff Hearing Exhibit 1) (hereinafter "Hoagg").

⁶⁷ Intrado Brief at 11.

⁶⁸ *Illinois SCC Order* at 8.

preserved and enhanced.”⁶⁹ Accordingly, AT&T’s proposed use of a commercial, non-251(c) agreement should be rejected.

II. ISSUE 2(A): SHOULD INTRADO’S PROPOSED INTERCONNECTION RATES BE INCLUDED IN THE ICA FOR INTRADO SERVICES PROVIDED TO AT&T?

ISSUE 2(B): IF SO, ARE INTRADO’S PROPOSED INTERCONNECTION RATES APPROPRIATE OR SHOULD THE RATES MIRROR AT&T’S RATES TO INTRADO?

Intrado’s proposed access or interconnection port charges are appropriately included in the Parties’ interconnection agreement.⁷⁰ AT&T is wrong when it says 251(c) agreements are solely to allow a CLEC to obtain services from an ILEC.⁷¹ Indeed, AT&T itself admits that competitors’ rates are routinely included in 251/252 interconnection agreements.⁷² The FCC has recognized that ILECs and CLECs are “co-carriers” when developing interconnection arrangements⁷³ and Section 251(c) interconnection agreements are intended to address the mutual exchange of traffic between carriers.⁷⁴

Further, as explained in Intrado’s Initial Brief,⁷⁵ Intrado is under no obligation to mirror AT&T’s rates or provide cost support for its proposed charges.⁷⁶ AT&T’s claim that its “peer carriers” mirror its rates is irrelevant.⁷⁷ AT&T does not compete with “peer carriers” and thus

⁶⁹ *Illinois SCC Order* at 8.

⁷⁰ *Cf.* AT&T Brief at 16.

⁷¹ AT&T Brief at 16.

⁷² Rebuttal Testimony of Patricia Pellerin on behalf of AT&T Illinois at 27, line 590 to 28, line 598 (AT&T Hearing Exhibit 1) (hereinafter “Pellerin Rebuttal”) (discussing what Intrado can charge AT&T); *see also* AT&T Brief at 16 (discussing why Intrado’s charges should mirror AT&T’s).

⁷³ *Local Competition Order* ¶ 553.

⁷⁴ 47 C.F.R. § 51.5 (defining interconnection).

⁷⁵ Intrado Brief at 34-35.

⁷⁶ AT&T Brief at 16.

⁷⁷ AT&T Brief at 16.

mirroring AT&T's rates has no competitive effect on the peer carrier. Intrado, by contrast, will be a direct competitor of AT&T in the Illinois market. Intrado is entitled to operate independently of AT&T. No competitive provider of telecommunications services can conduct business where its business model is determined by the price setting whims of its competitor, particularly the incumbent.

Intrado's proposed interconnection charges are "reasonable" and "are not beyond the range of other companies."⁷⁸ If AT&T seeks to challenge the "reasonableness" of Intrado's rates, it should do that in a separate proceeding before this Commission.⁷⁹ Intrado's proposed rates should therefore be adopted for inclusion in the interconnection agreement⁸⁰ as well as Intrado's proposed language referencing its pricing attachment.⁸¹

III. ISSUE 3: SHOULD THE ICA INCLUDE REFERENCES TO AT&T'S TARIFFED RATES FOR CERTAIN PRODUCTS?

AT&T should be required to provide interconnection services to Intrado at 251/252 rates consistent with the requirements of the Act.⁸² Any transport facilities purchased by Intrado to connect to the AT&T selective router⁸³ would be appropriately classified as 911 interconnection facilities subject to Total Element Long Run Incremental Cost ("TELRIC") rates. This is consistent with AT&T's statements in other proceedings. Specifically, AT&T's witness stated in Florida:

⁷⁸ 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 at 21 (Oct. 8, 2008) ("Ohio CBT Arbitration Award").

⁷⁹ *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, ¶ 589 (2002) ("Virginia Arbitration Order").

⁸⁰ Intrado's proposed rates are set forth in Spence-Lenss Direct at Exhibit No. 4.

⁸¹ Appendix Pricing § 1.1.

⁸² 47 U.S.C. §§ 251(c)(2)(4); 252(d)(1).

⁸³ AT&T Brief at 17.

- Q: And you provide the service to the PSAP, is that correct?
- A: Yes.
- Q: So the CLEC's customer is reaching AT&T's customer, correct?
- A: But the service to the PSAP does not provide for the trunks between the CLEC and AT&T's selective router.
-
- Q: And the rates that these CLECs charge for the 911 trunks, are they retail or are they TELRIC?
- A: The 911 trunking charges?
- Q: Uh-huh.
- A: I believe they are TELRIC. They are not specific to 911. They are the same rates that we charge for interconnection trunks.⁸⁴

Intrado's proposed language is consistent with the requirements of 251/252 and reflects the way in which AT&T provides these facilities today, and should therefore be adopted.

IV. ISSUE 4: SHOULD THE ICA ARTICULATE THAT A PSAP'S SELECTION OF ITS E911 PROVIDER IS SUBJECT TO BEING REVOKED, CONDITIONED, OR MODIFIED?

Staff is correct that AT&T's proposed language is not supported by Illinois law.⁸⁵ A PSAP's selection of its 911/E911 system provider is subject to review and approval by the Commission pursuant to the detailed regulations of Part 725 of the Commission's rules.⁸⁶ AT&T is not obligated to police Intrado's relationships with Illinois PSAPs and public safety agencies - the Commission has developed specific rules to address this matter. AT&T has offered no

⁸⁴ Florida Docket No. 070736-TP, *Petition by Intrado Communications, Inc. for Arbitration of Certain Rates, Terms, and Conditions for Interconnection and Related Arrangements with BellSouth Telecommunications, Inc. d/b/a AT&T Florida pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Sections 120.80(13), 120.57(1), 364.15, 364.16, 364.161, and 364.162, F.S. and Rule 28-106-201, F.A.C.*, Volume I Hearing Transcript at 360, line 23 to 362, line 3 (Pellerin), available at <http://www.psc.state.fl.us/dockets/cms/docketFilings2.aspx?docket=070736>.

⁸⁵ Staff Brief at 11.

⁸⁶ See generally ILL. ADMIN CODE TIT. 83, § 725.

justification for its “incorrect and unsupportable”⁸⁷ proposed language,⁸⁸ and therefore Intrado’s proposed language should be adopted.⁸⁹

V. ISSUE 5: FOR NON-911 TRAFFIC, DOES INTRADO NEED TO ESTABLISH TRUNKS TO EACH AT&T LOCAL TANDEM IN A LATA WHERE INTRADO OFFERS SERVICE?

Staff is correct that there may be situations when traffic volumes or industry standard blocking criteria call for the establishment of additional trunking to AT&T’s local tandems.⁹⁰ But this decision should be based on Intrado’s traffic volumes and industry standards, not AT&T’s unilateral mandates. Intrado’s proposed language ensures that trunks are established when necessary based on the level of non-911 traffic⁹¹ exchanged and industry standard grades of service. Intrado has never indicated that its language would allow the routing of traffic inconsistent with the Local Exchange Routing Guide (“LERG”) as AT&T claims.⁹² Indeed, given that the LERG does not contain a requirement that would require Intrado to establish trunking to every AT&T tandem in a particular LATA, AT&T’s reliance on the LERG as support for AT&T’s language should be rejected. Accordingly, AT&T’s mandatory language should be rejected in favor of Intrado’s language, which allows Intrado to make the decision to establish additional trunking based on traffic volumes and blocking criteria.⁹³

⁸⁷ Hoagg at 9, lines 177-88; *see also* Staff Brief at 11.

⁸⁸ AT&T Brief at 18.

⁸⁹ Appendix 911 § 1.3.

⁹⁰ Staff Brief at 12-13.

⁹¹ AT&T is wrong when it claims Intrado is not currently certificated to provide non-911 service. *See* AT&T Brief at 19. While Intrado understands that it will be required to comply with additional Commission rules and regulations associated with the offering of dial tone services, Intrado is not required to modify its certification to do so. *See* Reply Testimony of Carey F. Spence-Lens on behalf of Intrado Inc. in Response to Staff Testimony at 3, line 12 to 4, line 2 (hereinafter, “Spence-Lens Reply”).

⁹² AT&T Brief at 20.

⁹³ Appendix ITR § 4.2.

VI. ISSUE 6: IS ADDITIONAL LANGUAGE REQUIRED IN APPENDIX OET TO EXPLICITLY STATE THAT THE APPENDIX DOES NOT APPLY TO 911 TRAFFIC?

This issue is resolved.

VII. ISSUE 7: WHEN INTRADO IS THE DESIGNATED 911/E911 SERVICE PROVIDER AND AT&T'S END OFFICE HAS END USERS SERVED BY MORE THAN ONE 911 SELECTIVE ROUTER NETWORK:

(a) Is AT&T Required To Implement "Line Attribute Routing" Rather Than Using Primary/Secondary?

(b) If AT&T Is Not Required Or Is Unable To Implement "Line Attribute Routing," Is AT&T Responsible For Intrado's Expenses?

(c) If AT&T Is Technically Incapable Of Implementing "Line Attribute Routing," Should All 911 Calls From A Split Wire Center Be Routed First To Intrado?

ISSUE 10(A): WHEN INTRADO IS THE DESIGNATED 911/E911 SERVICE PROVIDER, IS AT&T REQUIRED TO ESTABLISH A POI(S) ON INTRADO'S NETWORK?

Intrado is not seeking terms or conditions that "violate" established law or existing industry practices.⁹⁴ Intrado's point of interconnection ("POI") and direct trunking proposal reflects the requirements of Illinois law; the way in which AT&T compels CLECs to interconnect with AT&T's network to reach AT&T's PSAP customers; the manner in which AT&T provides 911/E911 services today between its own 911 calling customers and PSAP customers; and industry-accepted practices. All of these sources support the establishment of the POI for the exchange of 911/E911 calls at the selective router serving the PSAP and delivering 911/E911 calls over dedicated direct trunks to the selective router serving the PSAP.⁹⁵ For example:

⁹⁴ Cf. AT&T Brief 2.

⁹⁵ Intrado Brief at 53.

- Intrado seeks to establish POIs on its network when it is the designated 911/E911 system provider for the termination of 911/E911 traffic destined for Intrado’s PSAP customers.⁹⁶ AT&T requires the same arrangement when it is the designated 911/E911 system provider.⁹⁷ The Commission’s rules also require carriers “to deliver 9-1-1 calls to the appropriate selective router based on the originating caller’s location and assigned NPA for the 9-1-1 service provider’s selective router coverage area.”⁹⁸
- Intrado proposes the use of dedicated direct trunking from AT&T’s end offices to Intrado’s selective router to carry 911/E911 traffic destined for Intrado’s PSAP customers.⁹⁹ AT&T implements the same arrangements when it is the designated 911/E911 system provider.¹⁰⁰ The Commission’s rules also state that dedicated direct trunking is considered to be the standard method of routing 911/E911 calls.¹⁰¹
- Intrado proposes the establishment of two geographically diverse points of interconnection to ensure redundancy in the 911/E911 network.¹⁰² AT&T similarly uses “mated” or “paired” selective routers to establish diversity and redundancy within its own 911/E911 network and establishes dedicated direct trunks to each selective router. AT&T also requires competitors to interconnect at ***both*** selective routers using dedicated direct trunks to terminate 911/E911 traffic to AT&T’s PSAP customers.¹⁰³
- Intrado proposes the use of diversely routed trunks between the switch originating the 911 call (*i.e.*, AT&T’s end office) and the selective router serving the PSAP (*i.e.*, Intrado’s selective router). AT&T requires CLECs to provide a minimum of two dedicated direct trunks to each AT&T selective router to send their end users’ 911 calls to AT&T’s PSAP customers.¹⁰⁴ The Commission’s rules also require the use of a minimum of two trunks.¹⁰⁵
- Intrado’s language does not dictate a specific method for AT&T to use to route its end users’ 911 calls to the appropriate Intrado selective router, only that AT&T use dedicated direct trunks to do so.¹⁰⁶ AT&T likewise does not require CLECs to use a specific

⁹⁶ Intrado Brief at 53.

⁹⁷ Hicks Direct at Exhibit 1, 911 Attachment §§ 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”).

⁹⁸ ILL. ADMIN CODE TIT. 83, § 725.500(x).

⁹⁹ Intrado Brief at 40-41.

¹⁰⁰ Hicks Direct at Exhibit 1, 911 Attachment § 4.

¹⁰¹ ILL. ADMIN CODE TIT. 83, § 725.500(c).

¹⁰² Intrado Brief at 61-62.

¹⁰³ Hicks Direct at Exhibit 1, 911 Attachment § 4.

¹⁰⁴ Hicks Direct at Exhibit 1, 911 Attachment § 4.

¹⁰⁵ ILL. ADMIN CODE TIT. 83, § 725.500(c).

¹⁰⁶ Intrado Brief at 45.

method to determine to which selective router a 911 call should be delivered. Rather, the AT&T template interconnection agreement merely states that the CLEC is required to deliver its end users' 911 calls to the "appropriate" selective router.¹⁰⁷

Accordingly, Intrado's interconnection proposals are entirely consistent with Illinois law and industry-accepted interconnection arrangements as implemented by AT&T within its own network.

As discussed in Intrado's Initial Brief,¹⁰⁸ the FCC has found that the "cost-allocation point" for the exchange of 911/E911 traffic should be at the selective router.¹⁰⁹ Likewise, the Commission's rules require all telecommunications carriers to adopt practices and procedures "to deliver 9-1-1 calls to the appropriate selective router based on the originating caller's location and assigned NPA for the 9-1-1 service provider's selective router coverage area."¹¹⁰ Further, the Commission's rules state that dedicated direct trunking is considered to be the standard method of routing 911/E-911 calls.¹¹¹ This is also consistent with Staff witness Hoagg's proposal that 911 traffic should be routed to Intrado via dedicated trunks that bypass the switching (and any related functions) of AT&T's selective routers.¹¹²

AT&T's Initial Brief does not dispute this well-established precedent. Nor can it given that AT&T's witness actually agreed that the ILEC-established industry practice is that the POI for connecting to the 911/E911 network is at the selective router.¹¹³ Further, AT&T's witness

¹⁰⁷ Hicks Direct at Exhibit 1, 911 Attachment § 4.

¹⁰⁸ Intrado Brief at 57.

¹⁰⁹ *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").

¹¹⁰ ILL. ADMIN CODE TIT. 83, § 725.500(x).

¹¹¹ ILL. ADMIN CODE TIT. 83, § 725.500(c).

¹¹² Hoagg at 8.

¹¹³ Transcript at 186, lines 3-5 (Neinast) ("Yeah, if they want the call to complete, they have to route it to the correct switch, that's correct.").

admitted that service quality and industry standards call for the use of dedicated connections¹¹⁴ to “make the most reliable 911 network that [AT&T] can make.”¹¹⁵ Intrado’s proposed language is nearly identical to the requirements AT&T imposes on CLECs, which both Staff witness Hoagg and Staff witness Schroll admitted were consistent with the requirements of Part 725.¹¹⁶

AT&T’s arguments with respect to the physical architecture arrangements requested by Intrado miss the point. Intrado is not seeking “superior quality” interconnection arrangements to that which AT&T provides to itself or to that which AT&T requires of other competitors.¹¹⁷

Section 251(c)(2)(C) of the Act and the implementing rules of the FCC require AT&T to provide Intrado interconnection that “is at least equal in quality to that provided by [AT&T] to itself or to any subsidiary, affiliate, or any other party to which [AT&T] provides interconnection.”¹¹⁸ The provision of 911/E911 services is markedly different than POTS, and for that reason has been treated differently than POTS traffic by AT&T and all other ILECs. Intrado is not asking AT&T to “abandon” its methods of routing 911 traffic¹¹⁹ or to force AT&T to implement any type of interconnection arrangement that it has not already implemented for itself. Indeed, the record is clear that the interconnection arrangements established by AT&T for its provision of service to PSAPs require CLECs to establish dedicated direct trunking from the CLEC’s point of

¹¹⁴ Transcript at 190, lines 7-19 (Neinast).

¹¹⁵ Transcript at 190, lines 3-5 (Neinast) (“AT&T has tried to encompass all of those best practices to make the most reliable 911 network that it can make. And we offer those to CLECs to use that same philosophy.”).

¹¹⁶ Transcript at 237, lines 14-16 (Hoagg); Transcript at 242, line 20 to 243, line 3 (Schroll).

¹¹⁷ AT&T Brief at 27.

¹¹⁸ 47 U.S.C. § 251(c)(2)(C); 47 C.F.R. § 51.305(a)(3). AT&T’s statutory construction claims should also be rejected. *See* AT&T Brief at 42. Intrado agrees that the principles of statutory construction prohibit reading one provision of a statute to nullify or obliterate another. AT&T cannot use 251(c)(2)(B) and the implementing regulations for POTS traffic to undermine its obligations under 251(c)(2)(C) to provide interconnection to Intrado that is equal in quality to what AT&T provides itself when the competitive service at issue is 911/E911 service to PSAPs. Placing the POI on AT&T’s network when Intrado is the 911/E911 system provider would not provide Intrado with interconnection that is equal in quality to what AT&T provides to itself when providing 911/E911 service to PSAPs and would not be in the public interest.

¹¹⁹ *Cf.* AT&T Brief at 22.

interconnection or the CLEC's switch to each selective router serving the geographic area in which the CLEC is offering service.¹²⁰

AT&T's relationships with "neighboring 911 service providers" are not the measure for determining what interconnection arrangements are equal in quality in a competitive market.¹²¹ AT&T's "neighboring" 911 providers do not compete with AT&T for PSAP customers. Nor are the arrangements used when AT&T "is the sole 911 system provider" applicable here.¹²² AT&T fails to recognize that the arrangements to be established between Intrado and AT&T are intended to support fair competition between the Parties for PSAP customers.

In addition, AT&T recitation of how POI and trunking arrangements are established for POTS traffic have no bearing on the interconnection arrangements used for 911/E911 traffic as evidenced by AT&T's own network arrangements.¹²³ The interconnection arrangements AT&T has established for CLECs to deliver 911/E911 traffic to AT&T's PSAP customers are not consistent with Section 251(c) because, under those arrangements, CLECs must establish additional POIs for the termination of 911 traffic and trunking beyond the POI established for POTS traffic. AT&T's own arrangements therefore ignore the "well-established principle" AT&T seeks to impose on Intrado here.¹²⁴ Further, AT&T's interconnection agreements demonstrate that AT&T has determined, contrary to the position in its Initial Brief, that a separate POI for 911/E911 traffic is appropriate.¹²⁵

¹²⁰ Hicks Direct at Exhibit No. 1, 911 Attachment § 4.

¹²¹ AT&T Brief at 22.

¹²² AT&T Brief at 31.

¹²³ AT&T Brief at 26.

¹²⁴ AT&T Brief at 41.

¹²⁵ AT&T Brief at 40; *see also* Hicks Direct at Exhibit No. 1, 911 Attachment § 4.

As Intrado’s Initial Brief explains, Intrado is not requesting that AT&T use line attribute routing.¹²⁶ Intrado is simply requesting that AT&T route 911/E911 traffic to Intrado using dedicated direct trunking as Illinois law and AT&T’s own interconnection arrangements require. The Commission, through its adoption of Part 725, expects all carriers to route 911/E911 traffic to the appropriate selective router using dedicated direct trunking. Similarly, AT&T does not require CLECs to use a certain method to determine to which selective router a 911 call should be delivered. Rather, AT&T’s interconnection agreement merely states that the CLEC shall deliver its end users’ 911 calls to the “appropriate” selective router.¹²⁷ Further, Intrado has presented evidence that at least one other CLEC uses NPA-NXX to determine how to route 911/E911 calls to the appropriate selective router using dedicated direct trunks.¹²⁸ Thus, AT&T is incorrect when it claims that Intrado provided no evidence of methods other than line attribute routing that AT&T could use to accomplish Intrado’s request for dedicated direct trunking.¹²⁹

AT&T is also wrong that Intrado’s proposals will negatively affect other carriers.¹³⁰ As explained in Intrado’s Initial Brief, interconnecting with Intrado is likely to be perceived to be far more efficient for many providers than what is required to interconnect with ILEC 911 system providers today.¹³¹ AT&T’s suggestion that Intrado’s interconnection proposals may have a negative effect on other carriers is unsubstantiated and contradicted by the evidence of record.

¹²⁶ Intrado Brief at 53; *cf.* AT&T Brief at n.13.

¹²⁷ Hicks Direct at Exhibit No. 1, 911 Attachment § 4.

¹²⁸ Intrado Brief at 45, n.195, Attachment 1.

¹²⁹ AT&T Brief at nn.13, 14.

¹³⁰ AT&T Brief at 29.

¹³¹ Intrado Brief at 64.

Finally, AT&T's unsupported and unsubstantiated claims regarding the potential cost to implement Intrado's interconnection proposals should also be rejected.¹³² While AT&T claims Intrado should be responsible for "expensive" interconnection requests,¹³³ AT&T has provided no evidence supporting its allegation that implementation of Intrado's proposals would impose a cost on AT&T. The sole consideration is whether Intrado's interconnection proposals are technically feasible, and under the FCC's rules, the determination of technical feasibility does not include consideration of economic concerns.¹³⁴ Once Intrado has demonstrated that its proposal is technically feasible, the burden shifts to AT&T to demonstrate, by clear and convincing evidence, that the proposal is not technically feasible or that "specific and significant adverse impacts" would result from Intrado's requested interconnection arrangement.¹³⁵ AT&T has not met that burden here and thus its unproven claims should be rejected.

VIII. ISSUE 8: WHEN AT&T IS THE DESIGNATED 911/E911 SERVICE PROVIDER, IS INTRADO REQUIRED TO PROVIDE INTERCONNECTION TRUNKING TO EACH AT&T 911 SELECTIVE ROUTER WHERE INTRADO PROVIDES TELEPHONE EXCHANGE SERVICE?

Staff's proposed language recognizes that 911/E911 traffic should be delivered to the selective router serving the PSAP over dedicated direct trunks, and that those trunks may be self-provisioned or obtained from a third-party.¹³⁶ Intrado agrees with that position and seeks to have the same arrangement applied when *either* Party is the 911/E911 system provider. Staff acknowledges that its proposed language is consistent with Section 725.500(c) of the

¹³² AT&T Brief at 28.

¹³³ AT&T Brief at 28.

¹³⁴ 47 C.F.R. § 51.5 (defining technical feasibility).

¹³⁵ *Local Competition Order* ¶¶ 198, 203.

¹³⁶ Staff Brief at 21.

Commission's rules requiring the use of dedicated direct trunking.¹³⁷ Applying a different arrangement when Intrado is the 911/E911 system provider would therefore violate the Commission's rules, as well as standard industry practices as discussed above. Accordingly, to the extent Ms. Schroll's proposed language is adopted, it should be reciprocally applied to both Parties to reflect both Parties' obligations under Illinois law.¹³⁸

IX. ISSUE 9(A): FOR NON-911 TRAFFIC, SHOULD A POI BE DEFINED TO BE USED TO DELIVER "SECTION 251(B)(5)/INTRALATA TOLL TRAFFIC" OR "TRAFFIC"?

ISSUE 9(B): FOR NON-911 TRAFFIC, MUST INTRADO ESTABLISH ITS POI AT AN AT&T END OFFICE OR TANDEM?

ISSUE 9(C): SHOULD INTRADO'S DESIGNATED POI(S) BE NEGOTIATED BETWEEN THE PARTIES?

Intrado agrees with Staff that Intrado is not required to establish a POI for non-911 traffic at an AT&T end office or tandem location, or otherwise "negotiate" with AT&T on the location of the POI for non-911 traffic.¹³⁹ While AT&T may consider these locations to be "the natural, sensible places" to interconnect with AT&T,¹⁴⁰ the Act and the FCC's rules do not permit AT&T to dictate the location of the POI(s) that Intrado may use to exchange traffic with AT&T.¹⁴¹

¹³⁷ Staff Brief at 21.

¹³⁸ Intrado is not attempting to "undermine" the separation of the issues or "preempt" resolution on other issues. Cf. AT&T Brief at 36-37. Intrado is responding to compromise language proposed by Staff based on its recognition that Illinois law requires 911/E911 traffic to be delivered to the selective router serving the PSAP over dedicated direct trunks.

¹³⁹ Staff Brief at 22-23.

¹⁴⁰ AT&T Brief at 38.

¹⁴¹ 47 U.S.C. § 251(c)(2); 47 C.F.R. § 51.305(a) ("[a]n incumbent LEC shall provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the incumbent LEC's network . . . at any technically feasible point within the incumbent LEC's network"); *Virginia Arbitration Order* ¶ 52 ("competitive LECs may request interconnection at any technically feasible point"); *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").

AT&T has provided the Commission no reason to deviate from this long-standing principle and therefore Intrado's proposed language should be adopted.¹⁴²

X. ISSUE 11(A): WHEN A FIBER MEET IS USED FOR 911 TRAFFIC, SHOULD THE FIBER MEET BE AT AT&T'S SELECTIVE ROUTER LOCATION OR AT SOME POINT BETWEEN THE PARTIES' NETWORKS?

ISSUE 11(B): WHEN A FIBER MEET IS USED FOR NON-911 TRAFFIC, SHOULD THE FIBER MEET POINT BE AT AT&T'S END OFFICE OR TANDEM LOCATION OR AT SOME OTHER POINT BETWEEN THE PARTIES' NETWORKS?

ISSUE 11(C): FOR NON-911 TRAFFIC, SHOULD EACH PARTY: (1) PROVIDE 50% OF THE FACILITIES TO REACH THE MEET POINT; (2) BE SOLELY RESPONSIBLE ON ITS SIDE OF THE FIBER MEET; AND (3) PROHIBITED FROM CHARGING THE OTHER PARTY FOR THE FACILITIES?

AT&T provides no justification for its proposed language other than it makes "sense" for a meet point to be located where AT&T demands it to be.¹⁴³ As Staff points out, AT&T's proposed language is "overly restrictive and inconsistent" with the law.¹⁴⁴ By definition, a meet point is a point "between two networks."¹⁴⁵ The meet point should be at a point of Intrado's choosing, which could be at a point between the Parties' networks rather than an AT&T selective router, end office, or tandem location.¹⁴⁶ Intrado's proposed language should be adopted.¹⁴⁷

¹⁴² GTC §§ Whereas Clause 2, 1.1.117; Appendix NIM §§ 2.2, 2.3. Intrado's language using the term "traffic" should also be adopted for GTC § 1.1.117 and NIM § 2.2. *See* Intrado Brief at 52.

¹⁴³ AT&T Brief at 44-45.

¹⁴⁴ Staff Brief at 28.

¹⁴⁵ 47 C.F.R. § 51.5.

¹⁴⁶ Intrado Brief at 65-66.

¹⁴⁷ Appendix 911 NIM §§ 3.3.1, 3.3.7; NIM §§ 3.3.1.

XI. ISSUE 12: IF PSAPS REQUEST PSAP-TO-PSAP TRANSFER CAPABILITY, SHOULD THE PARTIES NEGOTIATE A SEPARATE AGREEMENT FOR SUCH AN ARRANGEMENT THAT INCLUDES THE PSAPS?

AT&T is wrong when it says PSAP-to-PSAP call transfer arrangements should not be in the Parties' interconnection agreement because those arrangements do not fall within Section 251(c).¹⁴⁸ First and foremost, whether such arrangements should be in the Parties' interconnection agreement is not an issue presented for arbitration. The Parties have already agreed on contract provisions governing PSAP-to-PSAP call transfer and none of those provisions are in dispute.¹⁴⁹

Further, Section 251(c) was specifically designed to address the mutual exchange of traffic between two carriers.¹⁵⁰ For the purposes of Section 251(c) and its implementing rules, the FCC 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."¹⁵¹ Provisions regarding PSAP-to-PSAP call transfer are specifically intended to address interoperability and the mutual exchange of traffic between the Parties. In addition, establishment of such transfer capabilities also appears to be consistent with the requirements of the Emergency Telephone System Act ("ETSA") that public safety agencies with adjacent (or contiguous) jurisdictional boundaries enter into agreements to ensure that Illinois citizens are not refused emergency service because of their location.¹⁵²

¹⁴⁸ AT&T Brief at 45.

¹⁴⁹ *See generally* 911 Appendix § 7.

¹⁵⁰ 47 C.F.R. § 51.5 (defining "interconnection").

¹⁵¹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392, ¶ 178 (1996) ("*FCC Interoperability Order*").

¹⁵² ETSA § 14.

AT&T's arguments miss the point.¹⁵³ The contract language proposed by Intrado

addresses AT&T's concerns:

911 § 1.4 If a 911/E911 Customer requests either Party to establish a PSAP to PSAP transfer arrangement, the Parties will *discuss and establish operational procedures negotiate such a separate agreement* consistent with the 911/E911 Customer's request for such an arrangement. The 911/E911 Customer will be a party to this separate agreement.¹⁵⁴

Transfer capabilities will not be implemented until a 911 customer requests such capabilities.

Intrado, however, must ensure that its interconnection arrangements will support the services to be offered to Illinois public safety agencies, such as PSAP-to-PSAP call transfer capabilities.

The interconnection arrangements to be established between the Parties directly affect Intrado's provision of service to its PSAP customers. Given AT&T's general unwillingness to work with Intrado, it is good business practice for Intrado to address these arrangements now to ensure such capabilities are available when a public safety customer seeks the capability. Intrado strongly supports the involvement of the Illinois public safety agency in defining 911 call routing requirements, such as alternate routing, back up routing, default routing, night transfer routing, call transfer routes, etc., with its designated 911/E911 system provider.¹⁵⁵ But there is no reason for the interconnection agreement to include language requiring a separate agreement with the PSAPs prior to implementing inter-selective router capabilities.¹⁵⁶ Intrado is fully capable of managing its customer relationships. Accordingly, Intrado's proposed language should be adopted.

¹⁵³ AT&T Brief at 46.

¹⁵⁴ Intrado's proposed language is reflected in *bold italics* and AT&T's proposed language is reflected in **bold underscore**.

¹⁵⁵ Hicks Direct at 40, lines 15-23; *see also* Transcript at 73, line 21 to 74, line 4 (Hicks) (indicating public safety needs to have a voice in making decisions).

¹⁵⁶ Appendix 911 § 1.4.

XII. ISSUE 13: IS IT NECESSARY FOR THE PARTIES TO NOTIFY EACH OTHER OF CHANGES TO INTER-SELECTIVE ROUTER DIAL PLANS?

The Parties have resolved Issue 13.

XIII. ISSUE 14: SHOULD AT&T BE REQUIRED TO PROVIDE INTRADO WITH AN INITIAL TRUNK FORECAST?

The Parties have resolved Issue 14.

XIV. ISSUE 15: SHOULD THE ICA REQUIRE AT&T TO FOLLOW INTRADO'S ORDERING PROCESSES AS POSTED ON INTRADO'S WEBSITE?

AT&T's argument that its ordering process must be used because it has many carriers that order services from it today does not justify rejection of Intrado's industry-standard process.¹⁵⁷ Intrado will also have many carriers that need to interface with Intrado's ordering systems to procure services from Intrado.¹⁵⁸ There is no justification for AT&T's self-serving position that its process and procedures should be imposed on the entire communications industry. Just as AT&T claims it has no obligation to use other carriers' ordering systems, neither does Intrado.¹⁵⁹ The interconnection agreement should therefore include language addressing how AT&T will order services from Intrado.¹⁶⁰ Intrado's ordering process is consistent with industry standards and should be included in the interconnection agreement.¹⁶¹

XV. ISSUE 16: SHOULD INTRADO BE REQUIRED TO PROVIDE WRITTEN NOTICE OF ITS NEED TO ESTABLISH INTERCONNECTION TO AT&T?

The Parties have resolved Issue 16.

¹⁵⁷ AT&T Brief Errata at 2.

¹⁵⁸ Transcript at 209, lines 9-13 (Neinast).

¹⁵⁹ AT&T Brief at 3.

¹⁶⁰ Appendix ITR §§ 8.6, 8.6.1.

¹⁶¹ Hicks Direct at Exhibit Nos. 5 and 6; *see also* Hicks Direct at 44, lines 11-16; Transcript at 207, lines 7-8 (Neinast) (acknowledging that Intrado's process "looks almost like a replicate of what's on the ASR ordering process" that AT&T uses).

XVI. ISSUE 17: SHOULD THE ICA REQUIREMENT OF 30-DAY NOTICE APPLY TO A PARTY’S “REQUEST” OR ITS “INTENT” TO CHANGE THE PARTIES’ PHYSICAL ARCHITECTURE PLAN?

Intrado does not dispute that either Party may modify the Parties’ network architecture arrangements after implementation of the interconnection agreement.¹⁶² AT&T claims that this issue should be resolved by requiring the Parties to discuss any proposed changes prior to implementation.¹⁶³ AT&T’s proposed language, however, would not even require the Parties to discuss any proposed changes. AT&T’s proposed use of the word “intent” implies that either Party has the unilateral right to change the physical architecture arrangements without allowing the other Party appropriate input into the process or the time to implement any necessary changes in that Party’s network.¹⁶⁴ Intrado’s language, by contrast, satisfies both Parties’ concerns (Intrado’s proposed language is shown in bold italics):

911 NIM § 2.4 Either Party must provide thirty (30) days written notice of *its request **any intent*** to change to the physical architecture plan. *Each Party acknowledges its responsibility to ensure all such changes comply with Applicable Law, including obtaining prior approval of the Commission, where such approval is required.*¹⁶⁵

This language ensures that any changes proposed by either Party will comply with applicable law, such as the Commission’s Part 725 rules. Accordingly, Intrado’s proposed language should be adopted.

¹⁶² Hicks Reply at 11, lines 11-12.

¹⁶³ AT&T Brief at 48.

¹⁶⁴ Hicks Direct at 46, lines 4-7.

¹⁶⁵ In contrast to AT&T’s claims, Intrado proposed this revised language to AT&T on December 2, 2008. Cf. AT&T Brief at 48.

XVII. ISSUE 18: SHOULD THE ICA PROVIDE THAT THE PARTIES WILL DOCUMENT AND SIGN AN INTERCONNECTION PLAN PRIOR TO ITS IMPLEMENTATION?

AT&T's only justification for its proposed requirement that Intrado needs to sign a separate agreement beyond the interconnection agreement to establish interconnection with AT&T is that the practice has been followed by CLECs for years.¹⁶⁶ While Intrado agrees that it may be beneficial to document the Parties' physical architecture arrangements, Intrado sees no reason for the Parties to enter into another formal, signed agreement.¹⁶⁷ Accordingly, Intrado's proposed language should be adopted.¹⁶⁸

XVIII. ISSUE 19: WHEN EITHER PARTY WILL ADD A SWITCH TO ITS NETWORK, IS 30 DAYS OR 120 DAYS THE APPROPRIATE NOTIFICATION PERIOD?

The Parties have resolved Issue 19.

XIX. ISSUE 20: WHEN AT&T IS THE DESIGNATED 911/E911 SERVICE PROVIDER AND MANAGES THE E911 DATABASE, SHOULD THE ICA REFERENCE "ALI INTEROPERABILITY"?

The Parties have resolved Issue 20.

XX. ISSUE 21: SHOULD THE DEFINITION OF "911 TRUNK" OR "E911 TRUNK" REFER TO AT&T'S END OFFICE OR AT&T'S SWITCH?

The Parties have resolved Issue 21.

¹⁶⁶ AT&T Brief at 50.

¹⁶⁷ Hicks Direct at 45, lines 7-9.

¹⁶⁸ 911 NIM § 2.1; NIM § 2.1.

XXI. ISSUE 22: SHOULD THE TERM “SECTION 251(B)(5) TRAFFIC” BE DEFINED WITH SPECIFICITY REGARDING THE PHYSICAL LOCATION OF THE ORIGINATING AND TERMINATING END USERS, OR SHOULD IT BE DEFINED GENERALLY BY APPLICABLE LAW?

ISSUE 23: SHOULD THE TERM “ISP-BOUND TRAFFIC” BE DEFINED WITH SPECIFICITY REGARDING THE PHYSICAL LOCATIONS OF THE ORIGINATING AND TERMINATING END USERS, OR SHOULD IT BE DEFINED GENERALLY AS DEFINED BY THE FCC’S ISP COMPENSATION ORDER?

ISSUE 24: SHOULD THE TERM “SWITCHED ACCESS TRAFFIC” BE DEFINED WITH SPECIFICITY REGARDING THE PHYSICAL LOCATIONS OF THE ORIGINATING AND TERMINATING END USERS, INCLUDING TRAFFIC USING INTERNET PROTOCOL (“IP”), OR SHOULD IT BE DEFINED GENERALLY TO BE CONSISTENT WITH APPLICABLE LAW?

AT&T’s reliance on the Commission’s 2004 *MCI Arbitration Decision* is misplaced¹⁶⁹ as explained in Intrado’s Initial Brief.¹⁷⁰ AT&T’s proposed language is inconsistent with the current rules applicable to intercarrier compensation.¹⁷¹ The 2004 *MCI Arbitration Decision* did not take into consideration many recent changes in law and additional pronouncements by the FCC.¹⁷² Intrado’s language, by contrast, refers to “Applicable Law” and would take into consideration the current requirements and any future requirements subsequently adopted.¹⁷³ AT&T’s proposed language is legally incorrect and Intrado’s language should therefore be adopted.

¹⁶⁹ AT&T Brief at 51 (citing Docket No. 04-0469, *MCI Metro Access Transmission Services, Inc., MCI WorldCom Communications, Inc., and Intermedia Communications Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions, and Related Arrangements with Illinois Bell Telephone Company Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Arbitration Decision (Nov. 30, 2004) (“*MCI Arbitration Decision*”).

¹⁷⁰ Intrado Brief at 74.

¹⁷¹ Intrado Brief at 73-78.

¹⁷² Intrado Brief at 74.

¹⁷³ Intrado Brief at 73-74.

XXII. ISSUE 25: FOR NON-911 SERVICES, SHOULD THE ICA REFLECT THAT INTRADO'S SERVICES ARE WIRELINE (DIALTONE) SERVICES?

AT&T's proposed language would limit reciprocal compensation to traffic determined to be "wireline" or "dialtone" neither of which are defined in the interconnection agreement.¹⁷⁴

There is no reason for inclusion of these undefined and unexplained terms in the interconnection agreement. As explained in Intrado's Initial Brief,¹⁷⁵ AT&T's arguments that these terms are proper because this is not a "wireless" agreement are unavailing.¹⁷⁶ As interconnected co-carriers, Intrado may deliver wireless traffic to AT&T to the extent Intrado is providing telecommunications services to a wireless provider, and that wireless provider's customers call an AT&T customer.¹⁷⁷ AT&T's language should be rejected.

XXIII. ISSUE 26: SHOULD EACH PARTY BE REQUIRED TO JOIN THE OTHER IN FILING A COMPLAINT OR TAKING OTHER ACTION WHEN NEEDED TO ELIMINATE MISROUTED ACCESS TRAFFIC FROM A THIRD PARTY PROVIDER?

AT&T has no basis to doubt "Intrado's willingness to prevent traffic-washing or access-avoidance schemes."¹⁷⁸ The agreed-upon language by the Parties belies AT&T's argument:

IC § 16.2 In the limited circumstances in which a third party competitive local exchange carrier delivers Switched Access Traffic as described in Section 15.1 (iv) above to either Party over Local Interconnection Trunk Groups, such Party may deliver such Switched Access Traffic to the terminating Party over Local Interconnection Trunk Groups. If it is determined that such traffic has been delivered over Local Interconnection Trunk Groups *inconsistent with Applicable Law*, the terminating Party may object to the delivery of such traffic by providing written notice to the delivering Party pursuant to the notice provisions set forth in the General Terms and Conditions and request removal of such traffic. The Parties will work cooperatively to identify the traffic with the goal of removing such traffic from the Local Interconnection Trunk Groups. If the delivering Party has not

¹⁷⁴ Appendix Intercarrier Compensation § 1.2, 3.5; Appendix ITR § 2.14.

¹⁷⁵ Intrado Brief at 78-79.

¹⁷⁶ AT&T Brief at 53.

¹⁷⁷ AT&T's proposed language contemplates that third party traffic may be exchanged between the Parties. *See, e.g.*, Appendix Intercarrier Compensation § 3.5.

¹⁷⁸ AT&T Brief at 54.

removed or is unable to remove such Switched Access Traffic as described in Section 15.1(iv) above from the Local Interconnection Trunk Groups within sixty (60) days of receipt of notice from the other party, the Parties agree to jointly file a complaint or any other appropriate action with the applicable Commission to seek any necessary permission to remove the traffic from such interconnection trunks up to and including the right to block such traffic and to obtain compensation, if appropriate, from the third party competitive local exchange carrier delivering such traffic to the extent it is not blocked.

As this language demonstrates, the Parties have already agreed that they will “work cooperatively to identify the [misrouted] traffic with the goal of removing such traffic.”¹⁷⁹

AT&T’s proposed additional language (language underscored above), however, would require Intrado to agree to exercise “self-help” remedies or block so-called misrouted access traffic or otherwise join AT&T in an action before a state commission. There is no reason for this language to be included in the Parties’ interconnection agreement, especially in light of the FCC’s pronouncements against “self-help” practices and blocking traffic.¹⁸⁰ If AT&T sees the need to take action against another carrier, AT&T is free to do so without the assistance of Intrado and without the inclusion of specific language in the Parties’ interconnection agreement.¹⁸¹ Intrado’s proposed language should be adopted.

XXIV. ISSUE 27: WITH RESPECT TO THE FCC’S ISP REMAND ORDER, TO WHAT TRAFFIC SHOULD THE ICA PERMIT THE RETROACTIVE APPLICATION OF CHARGES?

Intrado agrees that the interconnection agreement should include terms and conditions to address changes in law. AT&T is wrong, however, when it says that “‘local calls’ is the

¹⁷⁹ Appendix Intercarrier Compensation § 16.2

¹⁸⁰ See, e.g., *Madison River Communications, LLC and Affiliated Companies*, Order, 20 FCC Rcd 4295 (2005) (taking enforcement action for blocking traffic); *OCMC, Inc.; Apparent Liability for Forfeiture*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 14160, ¶ 13 (2005) (“a carrier may not engage in self-help”); *Bell Atlantic-Delaware, et al., Complainants, v. Frontier Communications Services, Inc., et al., Defendants; and Ameritech Illinois, Pacific Bell, et al., Complainants, v. Frontier Communications Services, Inc., Defendants*, Order on Review, 15 FCC Rcd 7475, ¶ 11 (2000) (“the Commission looks unfavorably on such self-help”); see also *MGC Communications, Inc. v. AT&T Corp.*, 14 FCC Rcd 11647 (1999); *In the Matter of Communique Telecommunications, Inc. d/b/a LOGICALL*, Declaratory Ruling and Order, 10 FCC Rcd 10399 (1995).

¹⁸¹ Intrado Brief at 79-80.

appropriate classification to which a retroactive adjustment would apply.”¹⁸² The language at issue governs retroactive compensation for reciprocal compensation, which could apply to many different types of traffic not just “local calls” as AT&T’s language indicates. Therefore, Intrado has proposed language that would limit the application of retroactive compensation adjustments to those specifically ordered by intervening law. Intrado’s language should be adopted.

XXV. ISSUE 28: SHOULD AT&T’S GENERIC RATES, TERMS AND CONDITIONS APPLY TO INTRADO WHEN A SECTION 252 ARBITRATION FOR A SUCCESSOR AGREEMENT IS WITHDRAWN OR WHEN STATUTORY TIMEFRAMES ARE NOT MET?

AT&T’s proposed language is not “commercially reasonable”¹⁸³ because it would force Intrado to be subject to AT&T’s generic rates, terms, and conditions simply because the Parties do not complete the negotiation and/or arbitration of a successor agreement within the statutory 9-month timeframe. Intrado is not seeking to “forestall” the negotiation process or “enjoy” an expired interconnection agreement.¹⁸⁴ Intrado’s language is based in reality because, as AT&T is well aware, the negotiation and/or arbitration of an interconnection agreement can take significantly longer than the statutory 9-month timeframe due to no fault of Intrado.¹⁸⁵ Intrado should not be forced to adhere to interconnection terms different than those agreed-upon or arbitrated before a successor agreement is reached. Accordingly, Intrado’s proposed language should be adopted.

¹⁸² AT&T Brief at 55.

¹⁸³ AT&T Brief at 55.

¹⁸⁴ AT&T Brief at 55.

¹⁸⁵ The Parties’ current arbitration is a good example that the process often takes longer than nine months. Intrado requested negotiation of an interconnection agreement in May 2007, and will receive an arbitration decision in May 2009.

XXVI. ISSUE 29: ARE THERE SITUATIONS IN WHICH AT&T SHOULD BE LIABLE FOR INTRADO’S END USERS’ FRAUD?

The revised language proposed by AT&T does not address Intrado’s concerns.¹⁸⁶

Intrado’s concern is not whether AT&T’s own conduct is fraudulent. Instead, Intrado’s proposed language is intended to address those situations in which AT&T contributes or attributes to fraud committed by Intrado’s end users. As a common carrier, AT&T cannot protect itself from all liability, but AT&T’s proposed language does just that.¹⁸⁷ AT&T’s proposed language should therefore be rejected in favor Intrado’s proposed language, which is reasonable and ensures AT&T is liable in those instances when its actions contribute to the fraud of Intrado’s end users.

XXVII. ISSUE 30: SHOULD AT&T’S LIMITATION OF LIABILITY FROM ITS PROVISION OF 911 SERVICES: (A) INCLUDE LOSSES “UNLESS ATTRIBUTABLE TO AT&T”? AND (B) EXTEND TO INTRADO’S CUSTOMERS THAT ARE NOT END USERS?

The Parties have resolved Issue 30.

XXVIII. ISSUE 31: WHAT IS THE APPROPRIATE ROUNDING INCREMENT FOR RECIPROCAL COMPENSATION USAGE - TO THE NEXT MINUTE OR THE NEXT SIX-SECOND INTERVAL?

The Parties have resolved Issue 31.

XXIX. ISSUE 32: WHAT IS THE APPROPRIATE ROUNDING INCREMENT FOR AIRLINE MILEAGE - TO THE NEXT MILE OR THE NEXT ONE-FIFTH OF A MILE?

The Parties have resolved Issue 32.

¹⁸⁶ AT&T Brief at 57.

¹⁸⁷ *See, e.g.,* Docket 01-0623, *McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) pursuant to Section 252(b) of the Telecommunications Act of 1996*, Arbitration Decision at 16-17 (Jan. 16, 2002) (finding Ameritech could be held liable for damage caused by Ameritech’s “gross negligence or willful misconduct”); *see also* Spence-Lenss Direct at 32, lines 4-5.

XXX. ISSUE 33: IN THE EVENT INTRADO ORDERS (AND AT&T INADVERTENTLY PROVIDES) A SERVICE THAT IS NOT IN THE ICA: (A) IS AT&T REQUIRED TO PROPOSE RATES PURSUANT TO SECTIONS 251/252, OR MAY AT&T CHARGE INTRADO ITS EXISTING GENERIC ICA CHARGES? AND (B) SHOULD AT&T BE PERMITTED TO REJECT FUTURE ORDERS UNTIL THE ICA IS AMENDED TO INCLUDE THE SERVICE?

It is not “unreasonable” for Intrado to expect AT&T to propose rates that are consistent with the Section 251/252 process, even if so-called “generic” rates already exist.¹⁸⁸ Any interconnection-related charges to be applied to Intrado via the interconnection agreement must be developed through the Section 252 process with approval by the Commission (unless those services are non-252(d)(1) services), and AT&T does not argue otherwise. Intrado is not seeking to “get” products or services for free.¹⁸⁹ Intrado’s witness acknowledged that Intrado would not expect AT&T to continue provisioning a service that is not contained in the interconnection agreement until the Parties amend the agreement to contemplate that service.¹⁹⁰ Intrado merely seeks to ensure that it is aware of any rates to be charged by AT&T and that such rates are developed consistent with the process set forth in Sections 251 and 252 as applicable.¹⁹¹ Accordingly, Intrado’s proposed language should be adopted.¹⁹²

¹⁸⁸ Cf. AT&T Brief at 58.

¹⁸⁹ Cf. AT&T Brief at 58.

¹⁹⁰ Spence-Lenss Direct at 34, lines 12-15.

¹⁹¹ Intrado Brief at 83.

¹⁹² Appendix Pricing §§ 1.9.1, 1.9.2.

XXXI. ISSUE 34: WHEN INTRADO REQUESTS A NON-STANDARD COLLOCATION ARRANGEMENT FOR WHICH RATES, TERMS, AND CONDITIONS ARE NOT ESTABLISHED IN APPENDIX PC, SHOULD NON-STANDARD CHARGES APPLY, OR SHOULD AT&T BE REQUIRED TO APPLY THE SAME CHARGES AS FOR “SIMILAR” ARRANGEMENTS PROVIDED TO OTHER CARRIERS?

The fact that a “non-standard” collocation request may never occur or may be “unrealistic” does not change the need for inclusion of Intrado’s proposed language in the interconnection agreement.¹⁹³ As explained in Intrado’s Initial Brief, AT&T should not be permitted to impose “non-standard” charges on Intrado for collocation arrangements that AT&T has provided to other service providers.¹⁹⁴ Further, Intrado’s proposed language is not vague¹⁹⁵ - determining whether a collocation arrangement is “similar” will depend on the space occupied, the power consumed, maintenance, the components used, etc. AT&T should not be permitted to impose arbitrary costs on Intrado when AT&T has already provided a similar arrangement to another provider. Intrado’s proposed language should be adopted.

XXXII. ISSUE 35: SHOULD INTRADO PROVIDE EMERGENCY SERVICES TO AT&T AT PARITY WITH INTRADO’S “END USERS” OR INTRADO’S “CUSTOMERS”?

ISSUE 36: IS 911/E911 TRAFFIC ROUTED BETWEEN AT&T’S END USERS AND INTRADO’S “END USERS” OR INTRADO’S “911 CUSTOMERS”?

AT&T provides no support for its position that Intrado’s public safety customers are not considered “End Users” under the interconnection agreement.¹⁹⁶ Today, PSAPs or municipalities are purchasing services from the ILECs at retail rates via a retail tariff and are

¹⁹³ Cf. AT&T Brief at 59.

¹⁹⁴ Intrado Brief at 84.

¹⁹⁵ Cf. AT&T Brief at 59.

¹⁹⁶ AT&T Brief at 60.

accorded end user status by the ILEC.¹⁹⁷ These users should be treated no differently when being served by Intrado. Accordingly, AT&T's language should be rejected.

CONCLUSION

For the foregoing reasons and those set forth in Intrado's Initial Brief, Intrado respectfully requests that the Commission adopt Intrado's positions and proposed language as set forth herein.

Respectfully submitted,

INTRADO INC.



Cherie R. Kiser
Angela F. Collins
Cahill, Gordon & Reindel LLP
1990 K Street, NW, Suite 950
Washington, D.C. 20006
202-862-8900 (telephone)
202-862-8958 (facsimile)
ckiser@cgrdc.com
acollins@cgrdc.com

Craig W. Donaldson
Senior Vice President - Regulatory Affairs

Rebecca Ballesteros
Associate Counsel

Intrado Inc.
1601 Dry Creek Drive
Longmont, CO 80503
720-494-5800 (telephone)
720-494-6600 (facsimile)

Dated: January 20, 2009

Its Attorneys

¹⁹⁷ Spence-Lenss Direct at 35, lines 6-9.

CERTIFICATE OF SERVICE

I, Angela F. Collins, certify that on this 20th day of January 2009, I electronically filed a copy of the foregoing Reply Brief of Intrado Inc. with the Clerk of the Illinois Commerce Commission and served a copy on the following via electronic mail.



Angela F. Collins

David Gilbert
Administrative Law Judge
Illinois Commerce Commission
160 N. LaSalle Street
Suite C-800
Chicago, IL 60601
E-mail: dgilbert@icc.illinois.gov

Bonita Benn
Administrative Law Judge
Illinois Commerce Commission
160 N. LaSalle Street
Suite C-800
Chicago, IL 60601
E-mail: bbenn@icc.illinois.gov

Mark Ortlieb
Nancy Hertel
AT&T Illinois
225 West Randolph Street
25th Floor
Chicago, IL 60606
E-mail: mo2753@att.com
E-mail: nw1783@att.com

J. Tyson Covey
Angela D. O'Brien
Mayer, Brown LLP
71 S. Wacker Drive
Chicago, IL 60606-3441
E-mail: jcovey@mayerbrown.com
E-mail: aobrien@mayerbrown.com

Matthew Harvey
Megan McNeill
Illinois Commerce Commission
160 N. LaSalle Street
Chicago, IL 60601
E-mail: mharvey@icc.illinois.gov
E-mail: mmcneill@icc.illinois.gov

Marci Schroll
Telecommunications Division
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701
E-mail: mschroll@icc.illinois.gov