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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Intrado
Communications Inc. to Provide Competitive
Local Exchange Services in the State of Ohio.)
Case No. 07-1199-TP-ACE)

JOINT PETITION FOR WAIVER AND SUPPLEMENTAL ORDER

Hamilton County Department of Communications ("Department"), which is under the jurisdiction of the Hamilton County Board of Commissioners, and Intrado Communications Inc. ("Intrado Comm"), together referred to as the "Petitioners," jointly request that the Public Utilities Commission of Ohio ("Commission") take the following actions:

- I. Grant a waiver as to Hamilton County, Ohio of the provision that Public Safety Answering Points ("PSAPs") may be served by a competitive emergency services telecommunications carrier only on a countywide basis;¹ so that Intrado Comm may provide service to the Department for 9-1-1 calls received from wireless, VoIP and CLEC customers; and
- II. Clarify that the Commission's goal for seamless 9-1-1 services includes transferability across county lines as well as among PSAPs within a county² as that goal affects Hamilton County.

The Commission has authority to grant this Joint Petition pursuant to Ohio Revised Code Section ("R.C.") 4905.04(B) and Ohio Administrative Code ("OAC") Rule 4901:1-6-06. The grounds for the Petitioners' request are set forth in the Memorandum in Support below.

¹ Finding and Order, February 5, 2008, Case No. 07-1199-TP-ACE, Finding No. 10, p. 8.
² Id., p. 9.

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MEMORANDUM IN SUPPORT

Background and Summary:

Department has requested that Intrado Comm provision 9-1-1 services as described in the Intrado Comm tariff as to calls originating from persons in its 9-1-1 operational district who initiate calls from wireless, VoIP and CLEC providers. At this time, the Department has not requested that Intrado Comm's services include calls initiated from the Cincinnati Bell Telephone Company ("CBT") wireline system. The requests made in this Joint Petition have no effect upon the issues in current arbitration proceedings.

For reasons explained below, the other PSAPs in Hamilton County would prefer to wait until Intrado Comm has deployed services to the Department before agreeing to engage Intrado Comm for their 9-1-1 operational districts. Thus Intrado Comm requests the Commission for a waiver from the county-wide service requirement as to Hamilton County until successful completion of the pilot period.

The process for implementing the Intrado Comm 9-1-1 service includes a "beta" testing of Intrado Comm services before any live 9-1-1 calls are placed. Following successful beta testing, the Department and Intrado Comm desire to implement a limited deployment of 9-1-1 services over Intrado Comm's network during which live 9-1-1 calls from persons using wireless, VoIP and CLEC providers will be delivered to the Department's emergency communications center for dispatching to first responders. Following the successful demonstration of 9-1-1 call processing functionality, a seamless migration will occur to allow full processing of live 9-1-1 calls from wireless, VoIP and CLEC networks.

During the limited deployment and migration of services to Intrado Comm, the Department must be able to transfer 9-1-1 calls from its emergency communications center to other public safety agencies that may be utilizing CBT as their 9-1-1 service provider for all calls. Interoperability between CBT and Intrado Comm must be in place within Hamilton County as well as among incumbents and competitive providers in other counties. Accordingly, the Petitioners request the Commission clarify that interoperability must be in place to transfer calls both within and outside of Hamilton County.

I. Based on Circumstances Unique to Hamilton County at This Time, Intrado Comm Should Be Able To Serve a Single PSAP in Hamilton County

The Commission's Finding and Order set forth a framework by which PSAPs may receive the benefits of competitive choice and entry. The Commission mandated that:

Intrado [Comm], or any other competitive emergency services telecommunications carrier, may not operate as 9-1-1 system service provider in a countywide system until such time as the county has amended its 9-1-1 plan to identify that carrier as the 9-1-1 carrier of choice for the designated telecommunications (e.g., wireline, wireless, VoIP, etc.). *** Any competitive emergency services telecommunications carrier authorized to act as a countywide system service provider must carry all calls throughout the county for such types of telecommunications services designated by the county. ***³

The Commission has recognized that it has an ongoing role in the development of 9-1-1 competition to protect the public interest and to monitor the effectiveness of 9-1-1 systems in the State.

*** Additionally, the Commission emphasizes that the requirement that there be no more than one additional competitive emergency services telecommunications carrier designated by the county for specific types of traffic is necessary and limited in scope at this point in time in order to ensure that the public interest is protected and the chance of a 9-1-1 system error is reduced. *The*

³ Id., Finding No. 11, pp. 8-9.

Commission will continue to monitor the development of the competitive emergency services telecommunications market and will take whatever future action that it deems necessary.⁴
(Emphasis added.)

Hamilton County is the first county in the state to select a competitive alternative to an incumbent service offering. Because Hamilton County has a Commission-approved countywide 9-1-1 Plan,⁵ the Department sought the agreement of the other three PSAPs. However, when the 9-1-1 Coordinator for Hamilton County, Ronald W. Bien, requested representatives of the other three PSAPs to select Intrado Comm as the countywide 9-1-1 service provider, they all declined (See Attachment A). Their basis for declining at this time was not because they did not wish to consider a change to Intrado Comm, but because they preferred that the Department complete testing and successful demonstration of the new services provided by Intrado Comm before deciding to make a countywide change in the plan. Their desire to see results of a new group of services offered by a new 9-1-1 provider before “signing on” appears to be eminently reasonable.

In short, this is a situation where a PSAP in a countywide plan wishes to defer a decision about changing to Intrado Comm—the first competitive emergency provider in the state—until the Department has tested and validated the new offerings. If the Commission were to insist upon enforcing the countywide requirement in light of these circumstances, it would place everyone involved—the Department, the other three PSAPs and Intrado Comm—in a “Catch-22” dilemma.

Moreover, the countywide restriction would violate the Commission’s pro-competitive principles upon which it based the certification of Intrado Comm in the first place:

⁴ The Commission later clarified in this proceeding that this mandate appears to apply only to Intrado Comm and is not automatically applicable to other entities that may seek CESTC status and that it was put in place due to circumstances involving new competitive 9-1-1 service providers. Entry on Rehearing, April 2, 2008, Case No. 07-1199-TP-ACE, Finding No. 24, p. 17.

⁵ Case No. 87-1031-TP-EMG, Finding and Order, July 13, 1987.

*** As discussed in Intrado [Comm]'s application, its next-generation technology will provide PSAPs with the enhanced capability to process, route, and deliver wireline, wireless, and VoIP calls, enabling more relevant information to be sent to emergency personnel ***. By certifying competitive emergency services telecommunications carriers, the *Commission recognizes that it is providing PSAPs with competitive alternatives (e.g., Intrado [Comm]) to the ILEC's traditional processing of 9-1-1 traffic*. PSAPs will now have the opportunity to contract with entities that provide the most advanced 9-1-1 service available. *This competitive environment will encourage the further development of 9-1-1 technology.*⁶ (Emphasis added.)

In citing this competitive principle, the Commission was implementing R.C. 4927.02(A) which states in pertinent part that the policy of the state of Ohio to be considered by the Commission is:

- (3) Encourage innovation in the telecommunications industry;
- (4) Promote diversity and options in the supply of public telecommunications services and equipment throughout the state;
- (5) Recognize the continuing emergence of a competitive telecommunications environment through flexible regulatory treatment of public telecommunications services where appropriate;

Competition denotes freedom to make choices at the time of the purchaser's choosing; thus, absent a waiver of the countywide restriction in this instance, the competitive choice already made by the Department would be thwarted. A competitive market demands that the choices made by the Department, as well as other agencies in the County, including the choice to not engage Intrado Comm at this time, should be honored and accommodated in this instance.

For Ohio public safety agencies to reap the benefits of competitive 9-1-1 offerings in this state, a regulatory environment, as contemplated by R.C. 4927.02, must exist in which competitive providers can sell and deploy their offerings to "early adopter" public safety agencies without undue impediments. Some agencies, such as the Department, are able and willing to lead an effort to help make major improvements in emergency telecommunications,

⁶ Finding and Order, February 5, 2008, Finding No. 7, p. 6.

but not all agencies are in a position to do so, particularly at the same time. Petitioners recognize the Commission's desire to monitor the development of competitive 9-1-1 in Ohio, especially in these nascent stages, but Petitioners urge the Commission to find a way for both interests to be protected in a pro-competitive manner by granting this Joint Petition.

The arrangement between the Department and Intrado Comm initiates the first offerings of their kind in Ohio. By granting a waiver of the countywide restriction in Hamilton County, the Commission will effectuate its goals of permitting competitive entry for 9-1-1 services in Ohio. During this initial implementation, Intrado Comm's services are not only undergoing testing and demonstration, but the other Hamilton County PSAPs, as well as the Commission Staff, will have the opportunity to analyze, test and evaluate Intrado Comm's services.

II. Public Safety Requires Interoperability Among the Four PSAPs Within Hamilton County as well as Outside of Hamilton County

In addition to requiring incumbent and competitive providers to act in a cooperative manner,⁷ the Commission determined that interoperability among providers, including transferability between 9-1-1 systems, is paramount. In its Finding and Order certifying Intrado Comm as a CESTC, the Commission made the following finding:

In order to promote the notion of seamless 9-1-1 service, each designated competitive emergency services telecommunications carrier shall interconnect with each adjacent countywide 9-1-1 system to ensure transferability *across county lines*. In addition, each competitive emergency services telecommunications carrier is required to ensure call/data transferability between Internet protocol (IP) enabled PSAPs and non-IP PSAPs within the countywide 9-1-1 systems it serves, and to other adjacent countywide 9-1-1 systems, including those utilizing non-IP networks which are served by another 9-1-1 system service provider.⁸ (Emphasis added.)

⁷ Id., Finding No. 9, pp. 7-8.

⁸ Id., Finding No. 12, p. 9.

While the Commission did not specifically address transferability or interconnection between agencies operating *within* a county, the Commission recognized that counties may have more than one provider: the ILEC and the competitive provider. “In addition to the ILEC, there may be no more than one competitive emergency services telecommunications carrier designated by the county per countywide 9-1-1 system.”⁹ Clearly, interoperability, such as call transfers, is necessary between the two 9-1-1 systems regardless of whether they are located in the same county or different counties.

To comply with the Commission’s direction for ensuring “seamless 9-1-1 service,”¹⁰ the interoperability must include transferability and interconnection *within* Hamilton County as well as across county lines. Intrado Comm requests such a clarification from the Commission to give assurance to the PSAP agencies that their individual 9-1-1 systems will not become isolated during the implementation of the Department’s 9-1-1 services with respect to wireless, VoIP and CLEC calls.

Thus the Petitioners urge the Commission to issue a clarification indicating that:

- 1) interconnection should ensure transferability with adjacent 9-1-1 systems within Hamilton County, as well as across county lines; and
- 2) both Intrado Comm and the ILEC 9-1-1 system service provider are required to ensure call/data transferability between PSAPs served by different 9-1-1 systems both inside and outside Hamilton County.

⁹ Id., Finding No. 11, p. 9.

¹⁰ Id., Finding Nos. 10 and 12, pp. 8, 9.

Conclusion:

Petitioners respectfully request that the Commission act on its intention to “continue to monitor the development of the competitive emergency services telecommunications market and *** take whatever future action that it deems necessary”¹¹ by waiving the countywide requirement in Finding No. 11 and clarifying Finding No. 12, respectively, in its Finding and Order as follows:

- (1) Waive the countywide restriction to permit Intrado Comm to provide service to the Department for calls originating from wireless, VoIP and CLEC providers in Hamilton County and to permit the Department to exercise competitive choice for 9-1-1 services;
- (2) Clarify that both Intrado Comm and the ILEC are required to provide transferability and interconnection between 9-1-1 agencies within Hamilton County as well as to those across county lines; and
- (3) Take such other action the Commission deems appropriate to facilitate deployment of competitive 9-1-1 services in Hamilton County, Ohio.

Petitioners urge that the Commission address these issues in an expedited manner.

¹¹ Entry on Rehearing, April 2, 2008, p. 17.

Authorized to be filed:

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing JOINT PETITION FOR WAIVER AND FOR SUPPLEMENTAL ORDER was served upon the parties of record indicated on the attached service list this 25th day of July 2008, via electronic mail and regular mail postage paid.


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