

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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**REPLY OF  
HAMILTON COUNTY DEPARTMENT OF COMMUNICATIONS AND  
INTRADO COMMUNICATIONS INC.  
TO AT&T OHIO'S MEMORANDUM CONTRA**

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Hamilton County Department of Communications ("Department") and Intrado Communications Inc. ("Intrado Comm" and, jointly, "Joint Petitioners") herein file their Response to the August 11, 2008<sup>1</sup> Memorandum Contra of AT&T Ohio ("Memo Contra") to the Joint Petition for Waiver and Supplemental Order ("Joint Petition") filed on July 25, 2008 by the Department and Intrado Comm.

**AT&T Ohio's Introduction Contains Misstatements That Are an Attempt to Limit Competition to PSAPs in Ohio**

AT&T Ohio's Memo Contra is based on a number of false assumptions about the nature of the waiver requested in the Joint Petition, Intrado Comm's 9-1-1 architecture and the effect of the requested beta test on various carriers. The Joint Petition does not request the Public Utilities Commission of Ohio ("PUCO" or "Commission") to waive the requirement that public safety answering points ("PSAPs") may be served by competitive emergency services telecommunications carriers ("CESTCs") only on a county-wide basis.<sup>2</sup> Rather, the Joint Petition requests Commission approval to move forward with a beta test in Hamilton County

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<sup>1</sup> AT&T Ohio consented to an extension of time to file this Reply until Monday, August 25, 2008 (see letter dated August 14, 2008 filed in this proceeding).

<sup>2</sup> AT&T Ohio Memo Contra at 2.

with one PSAP, the Department. This waiver request is for just this one PSAP, for a limited period of time, to extend for only the duration of the beta test. At this juncture, there is no request before the Commission to waive its requirement concerning service by CESTCs only on a county-wide basis.<sup>3</sup>

Joint Petitioners state emphatically that, despite AT&T Ohio's assertion to the contrary,<sup>4</sup> Joint Petitioners' request will have no effect on any of the pending Intrado Comm arbitration proceedings. The beta test, as constructed, will not implicate any of the arbitration issues. Indeed, not one of the parties with whom Intrado Comm has requested interconnection, and against whom Intrado Comm has filed petitions for arbitration, including AT&T Ohio, are in any way involved in the beta test. AT&T Ohio's Memo Contra is simply placing "red flags" before the Commission in an attempt to delay competitive entry in the 9-1-1 marketplace.

**The Proposed Beta Test Is In Response to Public Safety Needs and Is Consistent with the Commission's Framework for the Development of 9-1-1 Competition**

AT&T Ohio poses the question of whether or not a beta test can work without interconnection with other carriers that participate as 9-1-1 service providers in Hamilton County. The answer to this question is a resounding "yes." As stated in the Joint Petition, the beta test as constructed will be conducted among willing participants who are responding to the needs of their end users and to public safety. These participants include a CLEC, a wireless

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<sup>3</sup> Although Joint Petitioners have only requested a limited waiver of the county-wide requirement for testing purposes, it is important to recognize that the county-wide system requirement was designed for the legacy 9-1-1 system, which has been provided as an ILEC monopoly 9-1-1 service since its inception. In a competitive environment, the county-wide requirement may have out-lived its usefulness, especially one in which the consuming public has become increasingly dependent on multiple service providers offering nomadic technologies (*e.g.*, wireless, Internet phone, computers, etc.). In addition, the requirement that county-wide systems be maintained could frustrate the development of competitive offerings to PSAPs that are capable of providing a national IP-enabled 9-1-1 service that offers greater functionality, diversity and reliability, which has been mandated by HR 3403, the New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283.

<sup>4</sup> AT&T Ohio Memo Contra at 2.

carrier<sup>5</sup> and a VoIP carrier. These willing participants have already made appropriate arrangements with the Department and Intrado Comm. Any interconnection issues among the voluntary participants have been completely resolved. Therefore, AT&T Ohio's claim that there are "many significant network requirements and costs associated with the establishment"<sup>6</sup> of the beta testing network, is not only completely untrue, the claim is being advanced for the sole purpose of impeding the time-sensitive evolution of innovative services, which AT&T Ohio is incapable of offering, in an effort to preserve illegitimately its disintegrating monopoly.

Contrary to AT&T Ohio's assertion, there are no open "technical issues" or "costs"<sup>7</sup> to be addressed or borne for the beta test. AT&T Ohio's statements concerning the existence of other "significant network requirements and costs" associated with the beta testing and the need for "technical resources to monitor the actual test activities,"<sup>8</sup> are simply false. AT&T Ohio has no factual information about the Joint Petitioners' design for the beta testing to be conducted and there are no facts to support its claim in this regard. AT&T Ohio is merely parading imaginary roadblocks. Indeed, AT&T Ohio exposes its arrogance in assuming that it is familiar with the architecture and construction of Joint Petitioners' beta test and that nothing can happen unless AT&T Ohio is involved.

It cannot be emphasized too many times that no incumbent local exchange carrier ("ILEC"), including AT&T Ohio, is involved in the beta testing. This was purposeful by the Joint Petitioners who wished to avoid arbitration issues in pending proceedings. The only party to "implicate" arbitration issues is AT&T Ohio.

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<sup>5</sup> AT&T Wireless is not a participant.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

**The Commission Contemplated Changes in Circumstances in Certifying Intrado Comm for Competition in the 9-1-1 Marketplace and To Be Responsive to Public Safety Needs**

AT&T Ohio claims that Joint Petitioners are making an untimely rehearing application by requesting a waiver.<sup>9</sup> Joint Petitioners, however, have only argued that the county-wide restriction is not appropriate for testing purposes in this instance. Indeed, the Commission's Entry on Rehearing in this proceeding effectively recognized that unintended consequences could not be known and made provision for future action.<sup>10</sup> Until the Department attempted to enlist the other PSAPs in Hamilton County to arrange for Intrado Comm's services and the other PSAPs, understandably, desired the completion of a beta test between Intrado Comm and the Department prior to deciding whether to use Intrado Comm's services, the problem of a county-wide requirement could not have been appreciated. For the reasons given in the Joint Petition,<sup>11</sup> and the Affidavit of Mr. Bien, the county-wide requirement is unworkable in this instance. Accordingly, Joint Petitioners have asked for a waiver for the beta test. If the Commission does not grant a limited waiver for the beta testing, its pro-competitive principle to permit choice for 9-1-1 services will indeed be thwarted. This requested waiver can hardly be described as a backhanded application for rehearing. Competitive entry of a 9-1-1 provider is new to Ohio and the Commission's Entry on Rehearing appropriately recognized that the Commission would be open to modifications. Because of the circumstances of the beta test and the activities that preceded it, Joint Petitioners are requesting a waiver precisely as the Commission would have contemplated in order to address unforeseen circumstances and consequences that have arisen. Moreover, as was stated earlier, the limited waiver request involves a temporary waiver to extend through the point at which the beta testing is completed.

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<sup>9</sup> *Id.* at 4.

<sup>10</sup> Entry on Rehearing, April 2, 2008, Case No. 07-1199-TP-ACE, Finding No. 24, p. 17.

<sup>11</sup> Joint Petition at 3-6.

## **Technical Issues Have Already Been Addressed and Are Not At Issue in the Waiver Request**

AT&T Ohio noted that Intrado Comm will deliver traffic from wireless, VoIP and CLEC providers, but not from Cincinnati Bell Telephone Company's ("CBT") landline system.<sup>12</sup> It set forth what AT&T Ohio perceived to be the requirements for carriers to separate 9-1-1 traffic destined for the Department via Intrado Comm from 9-1-1 traffic destined for the other Hamilton County PSAPs that are not part of the proposed beta test. AT&T Ohio's assumptions concerning call transfers are completely misplaced and contemplate a situation that will not exist. In the beta test there will be no call transfers with ILECs serving other PSAPs. Thus there is no beta test cost imposed upon others who are not participating. As stated above, cost issues with those participating in the test have been addressed.

AT&T Ohio presumes that it speaks on behalf of VoIP providers, alleging that they will incur additional costs to establish connectivity and further alleging that this is an arbitration issue.<sup>13</sup> As stated above, the Joint Petitioners specifically have not implicated arbitration issues with ILECs, because no ILECs are involved in this beta test, and the other participants are voluntary participants. Issues of cost and connectivity among the parties participating in the beta test have already been resolved. Furthermore, it is inappropriate for AT&T Ohio to interfere with the business relationships between Intrado Comm and beta test participants.

It is simply not true that "no carrier has agreed with Intrado [Comm]'s network architecture proposals."<sup>14</sup> Neither is it true that "many of Intrado [Comm]'s proposals do not follow industry guidelines."<sup>15</sup> While it may be accurate that Intrado Comm does not yet have an

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<sup>12</sup> AT&T Ohio Memo Contra at 5.

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

<sup>14</sup> *Id.* at 6.

<sup>15</sup> *Id.*

interconnection agreement with any of the monopoly service providers (the ILECS), AT&T Ohio has made these statements with absolutely no factual support; and they are patently untrue. Indeed, Intrado Comm has the relationships it requires with the relevant carriers participating in the beta test who have agreed with Intrado Comm's network architecture. Many industry guidelines are decades-old and only serve the needs and desires of monopoly providers, and many are in need of change. It is no wonder that AT&T Ohio is advancing that excuse as a reason to obstruct the beta test: AT&T Ohio would like nothing more than to see those antiquated guidelines remain in place since that would go a long way toward leaving monopoly providers entirely in control. The purpose of the beta test and the limited waiver is to allow the parties and the Commission an opportunity to carefully and methodically study what changes are appropriate.

AT&T Ohio also argues at length about what it perceives to be limitations on customer premise equipment, services and other items involved in the beta test.<sup>16</sup> AT&T Ohio persistently makes the false assumption that call transfer capabilities via other 9-1-1 service providers are required for this beta test. This is simply not the case. Call transfers via other 9-1-1 service provider networks will not occur unless an arbitration decision permits these call transfers or an agreement is reached with other 9-1-1 service providers to accomplish call transfers. However, the Commission's Finding and Order of February 5, 2008 in this proceeding makes it clear that call transfers are in the public interest and providers of 9-1-1 service to PSAPs are to ensure such capability exists.<sup>17</sup>

Finally, AT&T Ohio complains that no service participant can assess the technical or the cost issues with respect to the beta test, and that this beta test sidesteps the question of whether

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<sup>16</sup> *Id.*

<sup>17</sup> Finding No. 9.

9-1-1 call transfers between PSAPs will be done in a “conventional approach” (i.e., caller information relayed verbally) or via a 9-1-1 router to a 9-1-1 router process.<sup>18</sup> It claims that only when there is a clear definition of the expected design for the beta test and long-term deployments can a service participant assess the technical or costs issues. AT&T Ohio assumes that the Commission will be asked to assess how the Intrado Comm proposal impacts incumbent 9-1-1 service providers. This issue is not before the Commission as a result of this limited waiver request. The requested beta testing will have no effect on AT&T Ohio technically or financially. Intrado Comm is not posing this question for its beta test. Again, AT&T Ohio is making false assumptions about the purpose of the beta test as well as the architecture of the test.

### **Intra-County Interoperability**

Though Joint Petitioners discussed the importance of intra-county interoperability, in general, this only becomes an issue if ultimately the county-wide requirement is waived. However, a county-wide waiver is not currently before the Commission at this time. ILEC costs associated with any arrangements necessary to provide services that enhance the response of PSAPs or save lives, such as call transfers, presumably will be demonstrated by the ILECs in the context of their arbitration proceedings. In this proceeding, however, any suggestion that there

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<sup>18</sup> AT&T Ohio Memo Contra at 7.

will be “higher costs”<sup>19</sup> for implementing call transfers is unsupported and not at issue by any of the participants to the beta test.<sup>20</sup>

### **AT&T Ohio Is Not Involved In and Lacks Standing To Oppose the Beta Test**

Finally, but most importantly, the Joint Petitioners urge the Commission to dismiss AT&T Ohio’s Memo Contra. AT&T Ohio is not involved in any manner in the beta testing, nor is any ILEC. AT&T Ohio, and any other ILEC or party purporting to represent their interests, have no interest to be protected in connection with the beta test or the relief requested in the Joint Petition. After the beta test, there could be issues that the Commission, along with a wider range of interested parties, may need to grapple with, but no such issues exist in relation to this Joint Petition or beta test. Furthermore, the arbitration hearing between Intrado Comm and AT&T Ohio has not yet occurred. By taking the stance that insolvable arbitration issues are involved, AT&T Ohio is in essence admitting that it has no intention of attempting to resolve the arbitration issues in its case with Intrado Comm which it alone has raised in this proceeding. These statements bare its obstructionist intent with the only possible consequence that Ohio consumers will be harmed. But regardless of its obstructionist motives, AT&T Ohio lacks standing to oppose the beta testing, which will have absolutely no effect upon it. This reason alone is sufficient for AT&T Ohio’s Memo Contra to be denied.

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<sup>19</sup> *Id.* at 8.

<sup>20</sup> Although cost of call transfers is not an issue for this proceeding, it should be noted that non-competing ILECs provide call transfer services today between their selective routers on a bill-and-keep basis. This suggests each ILEC bears its cost to perform the call transfer function in addition to any charges they may impose on PSAPs. See, e.g., Case 07-1216-TP-ARB, Direct Testimony of James M. Maples on behalf of United Telephone Company of Ohio and United Telephone Company of Indiana, Inc. at 53, lines 12-14 (filed May 20, 2008) (“Each party bills their end users or PSAPs pursuant to the approved tariffs that they have filed with the Commission.”); *id.* at 105, lines 17-19 (“It is Embarq’s experience in Ohio that Primary and Secondary providers recover their costs directly from the PSAPs or their end users instead of billing connecting companies.”); see also Docket No. 070736-TP, Direct Testimony of Mark Neinast before the Florida Public Service Commission on behalf of AT&T Florida, at 44, lines 13-16 (filed April 21, 2008) (“Under the established industry practice today, when AT&T Florida incurs the costs to implement the capability for Selective Router-to-Selective Router call transfers, the requesting PSAP compensates AT&T Florida for those costs.”).



## Conclusion

Intrado Comm and the Department have intentionally avoided in the Joint Petition the issues currently under arbitration with Intrado Comm. While AT&T Ohio assumes to understand and attempts to define the Department's beta test with Intrado Comm, its statements and conclusions are simply not true. Out of respect for the arbitration proceedings underway, the issues being addressed in those proceedings were not raised in the Joint Petition. The beta test designed for the Department does not involve the numerous technical issues raised by AT&T Ohio. Intrado Comm and the Department will only test and implement those features and interconnections when the arbitration or negotiations have been successfully completed.

For all the reasons given above, Joint Petitioners urge the Commission to dismiss or deny AT&T Ohio's Memo Contra and to grant the relief requested on July 25, 2008 by Joint Petitioners.

Authorized to be filed:

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing REPLY TO AT&T OHIO  
MEMORANDUM CONTRA was served upon the parties of record indicated on the attached  
service list this 22<sup>nd</sup> day of August 2008, via electronic mail and regular mail postage paid.

  
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Summary: Reply of Hamilton County Department of Communications and Intrado Communications Inc. to AT&T Ohio's Memorandum Contra electronically filed by Teresa Orahod on behalf of Intrado Communications Inc.