

**Before the  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Petition of Intrado	)	
Communications Inc. for Arbitration	)	
Pursuant to Section 252(b) of the	)	Case No. 08- 537- TP-ARB
Communications Act of 1934, as amended,	)	
to Establish an Interconnection Agreement	)	
with Cincinnati Bell Telephone Company	)	

**REPLY BRIEF OF CINCINNATI BELL TELEPHONE COMPANY LLC**

Cincinnati Bell Telephone Company LLC (“CBT”) hereby submits its Reply Brief to the Initial Brief of Intrado Communications Inc. (“Intrado”). Intrado’s Initial Brief fails to make a case in support of the adoption of Intrado’s proposed contract language. Intrado appears to have attended a different hearing than CBT did. Intrado must have misheard or misunderstood much of the testimony. The Commission should reject Intrado’s positions and adopt CBT’s proposed interconnection agreement language.

**INTRODUCTION**

Intrado wants the best of both worlds: it has portrayed itself as a provider of “telephone exchange service” in order to obtain the benefits of interconnection under § 251 of the Telecommunications Act; but, when it comes to addressing the true limitations and requirements placed on a new entrant by § 251 of the Act, Intrado retreats to the position that 911 service is somehow different and deserving of more favorable treatment. Intrado also tries to use existing 911 arrangements with adjacent ILECs in support of its demands, all the while declining to actually interconnect with CBT in the same manner and on the same terms as CBT interconnects with other ILECs. Intrado cannot both rely on § 251 and dodge it. Intrado cannot demand the same treatment as a neighboring ILEC, but refuse the same arrangements. Intrado’s legal

positions on where and how the parties should interconnect—and who should pay for what it demands—ignore the plain language of the statute. The Commission should see past Intrado’s “911 is unique” mantra and apply the clear terms of the Act and relevant regulations.

While this Reply Brief will address the arguments made by Intrado in its Initial Brief, CBT will address each of the six disputed issues in numerical order, rather than the order in which they appeared in Intrado’s brief.

### **ARGUMENT**

#### **Issue 1:       There Is No Reason For The Parties’ Interconnection Agreement To Characterize Intrado’s Service As Telephone Exchange Service**

Intrado continues to claim that the Commission ruled that Intrado’s services are “telephone exchange service.” But, the Commission never decided whether Intrado’s service was “telephone exchange service,” only that Intrado was “engaged in” the provision of telephone exchange service when it terminated calls originated by other carriers. If there was no originating carrier, Intrado could not possibly provide telephone exchange service by itself because Intrado does not offer dial tone and no customer can originate a call.

It is Intrado’s burden to justify any requested changes to the interconnection agreement. Intrado admits that its requested language is not necessary because it has received all of the § 251 rights it has sought without this language.<sup>1</sup> CBT’s prior challenges to Intrado’s certification requests have been resolved, so there is no reason to revisit them in this proceeding or in the agreement. Given that Intrado has been afforded every interconnection right it has requested, there is no reason to include surplus language that has no substantive effect on the agreement. If Intrado is not trying to “get a clarification” of the Certification Order, then its proposed language

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<sup>1</sup> Tr. I, pp. 126-28, 286-87.

serves no purpose. Because there is no reason for the added language, the Commission should reject it.

**Issue 2: Intrado’s Proposed Physical Architecture Arrangement Is Not Consistent With Section 251(c) And Should Be Rejected**

Intrado is before the Commission pursuant to § 251 of the Act, so it must conform its demands to what the Act allows. The physical architecture arrangements Intrado seeks in this proceeding are not consistent with Intrado’s legal rights under the Act and should be rejected.

**A. Section 251 Interconnection Must Be “Within” the ILEC’s Network.**

Intrado interprets § 251(c)(2) of the Act as if each of its four subparts stands alone. To the contrary, those provisions are conjunctive and all must apply simultaneously. The requirement that interconnection be at least equal in quality to that provided by the ILEC to itself or others cannot be divorced from the requirement that interconnection be within the ILEC’s network.<sup>2</sup> The FCC rules implementing the Act only give competing carriers the option to select the points at which to exchange traffic with the ILEC “within” the ILEC’s network.<sup>3</sup> Intrado claims that § 251(c)(2)(B)’s requirement that the point of interconnection (“POI”) be on the ILEC’s network was established for the benefit of the competitor, not the ILEC.<sup>4</sup> That is a creative interpretation, as it would be more favorable to a CLEC if the ILEC had to build facilities to the CLEC (what Intrado wants), not vice versa. Nevertheless, it is irrelevant for whose benefit the requirement was established – what is irrefutable is that the POI must be “within” the ILECs network.

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<sup>2</sup> 47 U.S.C. § 251(c)(2)(B).

<sup>3</sup> 47 C.F.R. § 51.305(a)(2).

<sup>4</sup> Intrado Initial Brief, p. 6.

**B. CBT's Arrangements With Neighboring ILECs Do Not Support Intrado's Demands.**

Intrado is trying to use the “equal in quality” requirement to avoid the “within the ILEC’s network” requirement, but the two cannot be divorced. An ILEC has no obligation to build facilities to a location of a CLEC’s choosing. To the contrary, the CLEC has the obligation to bring its facilities to the ILEC’s network. Intrado has agreed to do that for some purposes, but for unknown reasons refuses to acknowledge that the same POIs can be used by CBT. CBT is offering Intrado exactly the same quality of interconnection as it provides to neighboring ILECs – but that is not what Intrado wants.<sup>5</sup> The only feature about ILEC to ILEC interconnection that Intrado wants to borrow is the place of interconnection – but that is one thing that is plainly dictated by the statute.<sup>6</sup> ILEC to ILEC interconnections are not governed by § 251(c),<sup>7</sup> while CLEC<sup>8</sup> to ILEC interconnections are. So, Intrado must settle for a POI that is within CBT’s network, not one to be built to an out of territory location of Intrado’s choosing.

CBT does not agree that the established industry practice is to connect to the 911 network at the selective router. Mr. Peddicord only testified that CBT exchanges traffic with adjacent ILECs using connections between their respective selective routers. He did not say that CBT delivered traffic all the way to the other carrier’s selective router. His main point was that the connections were between selective routers, not between an end office and the other ILEC’s selective router. To the contrary, the testimony was that interconnection with adjacent ILECs

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<sup>5</sup> CBT interconnects with adjacent ILECs using inter-selective router trunking. Intrado does not want to interconnect in that manner. There is no evidence that CBT takes any facilities outside its local service territory. Yet, Intrado wants to force CBT to provide facilities all the way to its selective router in Columbus. Intrado cannot have it both ways.

<sup>6</sup> 47 U.S.C. § 251(c)(2)(B).

<sup>7</sup> These arrangements are governed by § 251(a).

<sup>8</sup> Intrado is not even certified as a CLEC. As a CETSC, it cannot have any greater rights than a CLEC.

occurred at a meet point between their respective service territories.<sup>9</sup> Intrado has misconstrued this as saying the POI is at the other carrier's selective router. Even if CBT did provide facilities to an adjacent carrier's selective router (which it does not), that still would not assist Intrado's legal position because § 251(c)(2) requires that the POI be within CBT's network, not within Intrado's network. A § 251(a) arrangement with an adjacent non-competing ILEC does not trump the requirements of § 251(c) applicable to Intrado as a competing local carrier.

Intrado confuses technical feasibility with the place of interconnection. A method of § 251(c) interconnection must be both technically feasible and within the ILEC's network. It is not enough to show only technical feasibility. It may be technically feasible for two carriers to interconnect almost anywhere, but "anywhere" is not "within" the ILEC's network. CBT is not using § 251 (c)(2)(B) to "undermine" its obligations under § 251 (c)(2)(C) because both parts of the statute must be satisfied simultaneously. To the contrary, Intrado is attempting to use § 251(c)(2)(C) to undermine its obligation under § 251(c)(2)(B) to interconnect within CBT's network.

Intrado relies on the FCC's determination that, if a particular method of interconnection is currently employed between two networks or has been used successfully in the past, a rebuttable presumption is created that such a method is technically feasible for substantially similar network architectures.<sup>10</sup> But "method" of interconnection is not the same as the "place" of interconnection. CBT has offered Intrado interconnection using exactly the same method and level of quality that it uses with all other carriers—Intrado has refused that. Intrado wants to

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<sup>9</sup> CBT Exhibit 8, at p. 12, lines 9-11.

<sup>10</sup> *Local Competition Order* ¶ 554.

dictate the place of interconnection at an improper location, which has nothing to do with the method of interconnection.

Because the issue of location is not one of technical feasibility, it is not CBT's obligation to demonstrate why the interconnection arrangements it has with other carriers are not applicable to Intrado. Rather, it is Intrado's duty to demonstrate why it is entitled to the arrangement it seeks. Intrado is seeking to force CBT to interconnect with it outside of CBT's network, outside of its local service area, indeed, outside of CBT's single LATA, so the requested interconnection would not be "within" CBT's network. It must, therefore, be rejected. Likewise, Intrado incorrectly relies on the FCC's determination that successful interconnection or access "at a particular point in a network," using particular facilities, is substantial evidence that interconnection or access is technically feasible at that point or at substantially similar points in networks employing substantially similar facilities.<sup>11</sup> The FCC had in mind technical locations such as switches or cross-connect points,<sup>12</sup> not geographic locations such as New York or Florida.<sup>13</sup> Intrado does not seek to interconnect with CBT at a point within CBT's network, so the FCC's statements on presumed technical feasibility have no application. Try as it may, Intrado can cite to no authority whatsoever that overrides the "within the network" requirements of §251(c)(2)(B) and FCC Rule 51.305. The parties are not debating technical interfaces or protocol standards that the FCC had in mind.<sup>14</sup> There is no need for CBT to rebut the technical

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<sup>11</sup> *Local Competition Order* ¶ 204.

<sup>12</sup> 47 C.F.R. § 51.305(a)(2).

<sup>13</sup> Rule 51.305(a)(2) expressly requires that the location be "within the incumbent LEC's network."

<sup>14</sup> *Local Competition Order* ¶ 204.

feasibility of Intrado's requested method of interconnection because it is not a technical issue that is disputed, it is the geographic location of the POI.<sup>15</sup>

Intrado misunderstands or misrepresents what CBT "requires" of competitors who terminate traffic on CBT's 911 network. CBT does not dictate how competitors engineer their networks to originate traffic when it is the designated 911 provider. Section 3.8.2(a) does not place any requirements on how a CLEC handles originating 911 traffic within its own network or how (or where) the CLEC delivers calls from its network to CBT's. Section 3.8.2(a) only addresses how CLECs who used UNE switching would get their traffic from the UNE end office to CBT's selective router.<sup>16</sup> While § 3.8.2(b) may appear to require CLECs to deliver 911 traffic to CBT's selective router, that language was not created by CBT; it was presented to CBT by the first CLEC who arbitrated an interconnection agreement with CBT.<sup>17</sup> No other CLEC has ever requested anything different, so it has never been an issue. But whether or not CBT requires competitive carriers to bring their end users' 911 calls to CBT's selective router, CBT has no obligation under § 251(c) to bring its network to Intrado's selective router.

### **C. Intrado's Proposal for Multiple POIs Is Not Required.**

Intrado also demands that CBT establish interconnection to a minimum of two geographically diverse POIs on Intrado's network. Intrado claims that its demand is consistent with industry recommendations. However, CBT's obligations to interconnect are not driven by "industry recommendations" and Intrado cites to no legal authority for imposing either a

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<sup>15</sup> *Local Competition Order* ¶ 554.

<sup>16</sup> No CLEC ever used unbundled switching before the FCC eliminated it as a UNE, so this provision has never actually been used by any carrier.

<sup>17</sup> CBT Exhibit 8, p. 18.

diversity requirement or other industry recommendations. Even Intrado admits that the FCC does not currently require diversity or redundancy.<sup>18</sup>

In furtherance of its demand, Intrado twists the meaning of the single point of interconnection rule. Certainly, that rule benefits CLECs because they cannot be required to construct multiple connections. But Intrado points to nothing that requires an ILEC to use more than a single POI either. A POI is for the mutual exchange of traffic, yet Intrado appears to envision a world where it picks its interconnection points for traffic it delivers to CBT and it also picks separate interconnection points where CBT would have to deliver its traffic to Intrado. The Act and the FCC's rules do not contemplate such separate interconnection points over the ILEC's objection. While competitors are not precluded from establishing alternative arrangements by agreement, such as one that permits the ILEC to deliver its traffic to a different point or additional points that were more convenient for the ILEC than the single point designated by the competitor, Intrado seeks to impose its single will on CBT and force it into such an arrangement. CBT is entitled to use the same POIs that Intrado establishes within CBT's network as the location(s) where CBT will deliver its traffic to Intrado. The Commission should reject Intrado's attempt to dictate where CBT will deliver its traffic to Intrado.

Intrado is entitled to establish as many POIs as it wants within CBT's network. But the law allows CBT to decide which and how many of those interconnection points CBT will use to deliver its traffic to Intrado's network. It is for CBT to determine how best to engineer its network and how best to deliver traffic to Intrado, once Intrado has selected its POIs within CBT's network. As CBT has stated, it is likely to use diverse facilities, but there is no legal

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<sup>18</sup> See Intrado Initial Brief, at p. 11 and text accompanying n. 54.



requirement that it do so and Intrado has no right to dictate to CBT how many or which POIs CBT will use. The Commission should reject Intrado's demand.

**D. There Is No Basis for Intrado to Force CBT to Cross LATA Boundaries**

CBT's network (even its Kentucky and Indiana territory) is contained entirely within a single LATA. The requirement that interconnection be "in the LATA" is, thus, no more restrictive than the § 251(c)(2)(B) requirement that interconnection be "within" the ILEC's network. Intrado's resistance to "in the LATA" is illogical and unsupported. Intrado cannot force CBT to interconnect with it outside CBT's network so, by definition, it cannot force CBT to interconnect with it outside its local service territory or its LATA. Think of a Venn diagram where a circle represents CBT's network and is completely contained within a larger circle representing the LATA. Anything contained within the CBT network circle is also necessarily inside the LATA. And, anything outside the LATA is necessarily outside CBT's network and, therefore, beyond the scope of § 251(c)(2)(C).<sup>19</sup>

It is irrelevant whether CBT is legally allowed to carry traffic outside of its LATA because the question here is whether CBT can be forced to go outside its LATA for purposes of interconnection with a *local* competitor. Intrado is wrong in its assertion that CBT carries 911 traffic to adjacent ILECs outside of CBT's LATA.<sup>20</sup> While Embarq's selective routers are

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<sup>19</sup> There is, of course, a zone between the circle representing CBT's network and that representing the LATA, which is served by other ILECs and in which CBT has no network facilities. CBT cannot be forced to interconnect with Intrado in this area either, even though it is "in the LATA."

<sup>20</sup> CBT's witnesses did not give conflicting answers on this issue. Intrado apparently confuses the fact that calls travel outside of the LATA to Embarq's selective router with whether CBT is the carrier that transports those calls outside the LATA. At Tr. II, p. 6, lines 1-16, Mr. Peddicord was discussing the fact that 911 traffic was sent to destinations outside CBT's service area, not outside the LATA. At Tr. II, p. 25, lines 13-21 he did not say that CBT's lines run outside its service territory, only that the trunks connected CBT's selective router to Embarq's selective router. Mr. Peddicord clarified on redirect that CBT does not cross LATA lines to reach

located outside of CBT's LATA, CBT does not transport its traffic all the way to those selective routers. CBT delivers traffic to Embarq to a meet point within CBT's LATA and Embarq is responsible for taking the traffic to the location of its selective router. If Intrado wants to locate its selective router outside CBT's LATA, it is free to do so, but it is also responsible for transporting the traffic from the POI within CBT's network to the location of its selective router. Intrado cannot foist that duty onto CBT.

**E. Section 253(b) of the Act Does Not Give the Commission the Authority to Adopt Intrado's Proposed Arrangements**

Section 253(b) of the Act does not give the Commission authority to ignore the LATA boundary, as that would require CBT to interconnect at a point that is not "within its network." Section 253(b) may allow the Commission to adopt rules protecting public safety and welfare within the framework of § 251, but it does not authorize the Commission to override the clear requirements of § 251. Intrado's proposed physical architecture arrangements are not consistent with the requirements of § 251(c)(2)(B) of the Act. Ohio law specifically precludes the Commission from imposing any interconnection requirements that exceed or are inconsistent with or prohibited by federal law.<sup>21</sup> Therefore, Ohio law precludes the Commission from using § 253(b) of the Act to try to override the requirements of § 251(c)(2)(B).

**Issue 3: The Commission Should Not Mandate That CBT Implement Line Attribute Routing**

Whether or not "line attribute routing" is technically feasible, CBT cannot be required to implement it. Intrado has presented no authority giving it the right to dictate how CBT should

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adjacent ILECs. Mr. Fite also testified that CBT does not take its traffic to Embarq's selective router, but to a meet point and Embarq is responsible for all out of LATA facilities. Tr. II, at pp. 74, 84-85.

<sup>21</sup> Revised Code § 4905.041(A).

design or operate its network for purposes of originating traffic. Until calls leave CBT's network, it is entirely up to CBT how to route them. And, even if the Commission could require line attribute routing, under the FCC's rules, Intrado is responsible for paying for its cost.<sup>22</sup>

CBT has not claimed that "class marking" and "line attribute routing" are the same thing.<sup>23</sup> CBT's testimony addressed "class marking" because that was the terminology Intrado used during negotiations and in its arbitration petition.<sup>24</sup> Intrado has not indicated how CBT was supposed to know that Intrado's consultant would unilaterally rename its concept "line attribute routing"<sup>25</sup> when it had never told CBT that, or that "class marking" and "line attribute routing" were different.<sup>26</sup> Intrado even uses the term "class marking" in its recent contract with Hamilton County,<sup>27</sup> so if it did not intend to use "class marking" it should not have used this terminology in its sole Ohio PSAP contract.

Line attribute routing would require CBT to create new processes to program the information into the end office switch necessary to "attribute" the appropriate PSAP to the customer's access line. CBT would have to significantly modify its network and provisioning systems. Even if "line attribute routing" is technically feasible, under the FCC's requirements, if CBT is required to make changes in its network and operational practices to accommodate

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<sup>22</sup> Intrado is responsible for any costs CBT incurs to provide Intrado with a different form of interconnection. *Local Competition Order* ¶¶ 199, 200, 209, 225, 552.

<sup>23</sup> See Intrado's Initial Brief, p. 14.

<sup>24</sup> See Petition at p. 29.

<sup>25</sup> Tr. I, pp. 17, 23-24, 259.

<sup>26</sup> In reality there seems to be no conceptual difference between the two, except for Intrado's assertion that "line attribute routing" would be an automated process, as opposed to a manual process used for "class marking." Both methods require the assignment of a code to individual telephone lines in an end office switch to indicate how 911 calls from that line should be routed. Whichever method is used, it would still require changing CBT's end office switches and provisioning processes at some cost, none of which Intrado is willing to pay.

<sup>27</sup> CBT Exhibit 1, § 8, third paragraph.

Intrado's demands, then Intrado must pay for it.<sup>28</sup> And, as CBT pointed out in its Initial Brief, Intrado has already agreed to the Bona Fide Request procedure in Schedule 2.2, which also obligates it to pay the cost of special requests.<sup>29</sup> Intrado cannot make wholesale demands that CBT change its network and operating practices without compensating CBT for its costs to do so. If Intrado is unwilling to pay the costs, then its demands do not have to be honored.

CBT's initial brief addressed the technical side of line attribute routing and why CBT's proposal is more than adequate to provide parity of service to Intrado. Contrary to Intrado's claims, CBT's proposal to use a common trunk group for all 911 traffic destined for Intrado's network does not make it impossible for a PSAP served by Intrado to determine the originating carrier's end office. The end office can be determined from the calling party number, which is passed to the PSAP, or from the SS7 signaling received by Intrado, or from the ESCO code passed from CBT's selective router to Intrado's selective router in rare cases of ANI failure. This is no different than the information the PSAP receives today from CBT as the 911 provider.

Intrado has failed to produce any industry recommendation dealing with the carrier to carrier exchange of 911 traffic that requires direct connections from one carrier's end offices to another carrier's selective router.<sup>30</sup> To the contrary, CBT introduced NENA recommendations that specifically address how to network two selective routers as well as how to program one selective router to pass calls on to a second selective router to make them appear as originating calls to the second router.<sup>31</sup> NENA says nothing about requiring separate trunks for different end

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<sup>28</sup> *Local Competition Order*, ¶¶ 199, 200, 209, 225, 552.

<sup>29</sup> While CBT has done no formal study on line attribute routing, Tr. II, p. 79, the Bona Fide Request process of Schedule 2.2 would require Intrado to pay the cost of the study necessary to develop the costs to implement line attribute routing.

<sup>30</sup> Tr. I, p. 210.

<sup>31</sup> See CBT Exhibits 4, 5.

offices served by the originating selective router in that scenario.<sup>32</sup> All of the NENA references provided by Intrado only contemplated a single provider of 911 selective routing services, so it is not surprising that they would recommend connections from each end office to the selective router. Intrado has failed to provide a single reference to an industry standard that would require another carrier to implement “line attribute routing” or not to interconnect through selective routers, as proposed by CBT.

Intrado also tries to use § 3.8.2 of the interconnection agreement in support of its line attribute routing request. Intrado wrongly assumes that CBT requires CLECs to have separate direct end office trunks from each switch to CBT’s selective router. Nothing in § 3.8.2(b) requires that each CLEC switch have separate trunks to CBT’s selective router. CBT’s CLEC competitors connecting to its network typically do not have multiple end offices, but only one switch covering CBT’s entire service area. CBT does not require the CLECs to separate their 911 traffic by jurisdiction, as Intrado seeks here.

In any event, interconnection to CBT’s network is fundamentally different than interconnection with Intrado’s network because of § 251(c)(2)(B). As discussed under Issue 2, CLECs and other interconnecting carriers are obligated to bring their traffic to a POI on CBT’s network unless the parties can mutually agree upon a reasonable meet point arrangement. Nothing obligates CBT to build or lease network facilities to a POI on Intrado’s network.

Finally, Intrado inexplicably continues to argue whether CBT can “continue” charging PSAPs for selective routing.<sup>33</sup> As the evidence showed, CBT does not charge PSAPs now and does not propose to charge PSAPs in the future for the use of CBT’s selective router to deliver

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<sup>32</sup> CBT Exhibit 9, p. 11, lines 20-25.

<sup>33</sup> Intrado also continues to cite an inapplicable Florida decision on this point.

911 traffic to Intrado or another carrier. No PSAP is disadvantaged or required to incur costs on account of CBT using its selective router to identify traffic that terminates to Intrado. So, Intrado's economic concerns are a non-issue.

Intrado continues to doubt that CBT does not charge PSAPs for selective routing services, with no basis. Again, Intrado misunderstands (or misrepresents) Mr. Peddicord's testimony. He never said that PSAPs were billed for selective routing service. He was asked whether the fact that PSAPs are not charged for 911 service was memorialized anywhere. Mr. Peddicord stated that he had inquired and was told that no charges were imposed on PSAPs. He said that if PSAPs were charged anything, it would have been memorialized on a bill, but he never said (and there is no evidence) that PSAPs actually are being billed for selective router service.<sup>34</sup>

**Issue 4: The Interconnection Agreement Must Not Preclude The Exchange Of Third-Party 911 Traffic**

Intrado has proposed language that would prohibit either party from passing 911 traffic that originated with a third party to the other party.<sup>35</sup> That language violates the Commission's rules on transit traffic.

Intrado argues a *non sequitur* that, because transit arrangements have not been used for 911 traffic in the past, they should not be used for it in the future. First, it is not clear that this is true. There are undoubtedly calls that originate with wireless carriers that are handed off to CBT, but need to terminate to a PSAP served on Embarq's network. CBT passes those calls to Embarq for completion. Second, 911 traffic has not been transited between competing local

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<sup>34</sup> If CBT charged PSAPs such as Hamilton County for selective router service, one would expect Intrado to be aware of that and to have pointed it out. Tr. I, pp. 10-11.

<sup>35</sup> Joint Issues Matrix at Issue 4.

carriers heretofore, not because 911 calls are not allowed to transit, but because there has never been a competitive 911 provider to whom the calls could transit. If Intrado becomes a designated 911 provider, that fact will change. Third, CBT is not seeking to change the *status quo*, Intrado is. Currently, all carriers deliver their 911 traffic to CBT for termination with a PSAP. If Intrado becomes a designated 911 provider, something has to change for those calls to get to Intrado. Either the third party carriers have to install new direct connections to Intrado's network or CBT has to deliver those calls to Intrado's network indirectly. Until Intrado has direct connections to every other carrier, the *status quo* will be that all calls come to CBT first, so CBT cannot avoid receiving calls that have to be transited to Intrado. Intrado's language would prohibit CBT from sending those 911 calls to Intrado, which would be intolerable.

Intrado cannot force third-party carriers to interconnect directly with it.<sup>36</sup> If a third-party carrier only wishes to interconnect with Intrado indirectly, Intrado has to allow that. And, if the interconnection is indirect, CBT could be forced to be the carrier in the middle. Thus, the agreement cannot ban all indirect traffic. As much as Intrado and CBT may dislike transit traffic, the parties have to accommodate the Commission's rules on this subject. So, as long as it is possible for a third-party to insist on an indirect interconnection with Intrado, CBT cannot agree not to deliver such traffic. It would irresponsible for Intrado to refuse to accept those calls, which are going to come through CBT's network absent a change in the status quo.

Intrado states that, under the transit arrangement proposed by CBT, CBT would "dump every call originating in its network (or delivered to it by another carrier) onto a common trunk group for delivery" to Intrado.<sup>37</sup> CBT's testimony was that it would not just dump traffic on

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<sup>36</sup> 47 U.S.C. § 251(a).

<sup>37</sup> Intrado Initial Brief, p. 19.

Intrado<sup>38</sup>—all calls would be delivered with the ANI, which would allow Intrado to use its selective router to properly route the call. Intrado’s claim that PSAPs could not discern calls by type is false. Intrado knows that wireless calls are delivered by the pseudo-ANI (“pANI”) associated with the wireless tower, not the calling party’s actual telephone number. Intrado and the PSAPs know all of the pANI’s associated with wireless towers.<sup>39</sup> So, if a call comes from one of those pANI’s the PSAP will know it is a wireless call, not a wireline call. This is no different than the way CBT delivers 911 calls to PSAPs today—all calls are delivered to PSAPs over common trunks and are not segregated by end office or carrier. Similarly, for 911 calls sent to Embarq, a call from any CBT end office or any interconnected carrier will be delivered over the same common trunks from CBT’s selective router to Embarq’s selective router. CBT would not treat Intrado any differently than it does itself or Embarq today.

CBT agrees that it would rather not have to provide transit services.<sup>40</sup> Even though its template interconnection agreement requires Intrado to enter into interconnection arrangements with third-party carriers, nothing requires that those arrangements involve direct physical interconnection. Intrado and other carriers can have an interconnection agreement that addresses compensation, without there being a direct physical connection between networks. It would be great if Intrado succeeds in convincing other carriers to connect directly to it, but since it cannot legally compel that to happen, the agreement should not prohibit CBT from delivering indirect traffic. Intrado has failed to say what CBT is supposed to do with third party 911 calls destined to a PSAP served by Intrado if Intrado and the other carrier cannot agree on a direct

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<sup>38</sup> Intrado deleted the word “not” from its quotation of CBT’s testimony. CBT Exhibit 9, at p. 12, lines 4-6.

<sup>39</sup> Tr. I, pp. 121-22.

<sup>40</sup> Tr. II, p. 49.



interconnection. CBT asks the Commission not to prohibit CBT from sending those calls to Intrado. Intrado's language should be rejected.

**Issue 5: The Agreement Should Not Require Compliance With Voluntary Industry Recommendations And Guidelines**

Intrado's proposed language that both Parties should comply with the recommendations and guidelines established by NENA and the NRIC should be rejected because those recommendations are not mandatory.<sup>41</sup> Intrado acknowledges that NENA's own documents indicate that compliance is voluntary and that its recommendations are also subject to cost-benefit analysis.<sup>42</sup> It serves no purpose for the agreement to require compliance with these recommendations. Unless Intrado intends to dispute whether CBT is compliant with NENA recommendations, it is meaningless to include any compliance requirement to a voluntary guideline. If Intrado does not intend to ever challenge whether CBT is NENA compliant, there is no reason to include this language. Neither party should be subjected to second-guessing whether it made the right judgment in deciding whether (or how) to implement NENA recommendations. So, if Intrado really does not intend to involve itself in CBT's internal network design, there is no reason for this language.

A good example of this is Intrado's demand for "line attribute routing." CBT has cited several NENA documents that approve of interconnection between selective routers, while Intrado has not presented any NENA documentation recommending (or even discussing) line attribute routing. Even if line attribute routing had been recommended by NENA, implementation would still be voluntary and subject to a cost benefit analysis. Should CBT determine that the cost of implementing line attribute routing exceeded the benefit of doing so,

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<sup>41</sup> CBT Exhibit 9, at p. 11, line 7.

<sup>42</sup> Tr. I, pp. 213-14.

Intrado should not be able to second-guess that analysis in another effort to force CBT to modify its network. Neither party should be subjected to regulatory review of the internal engineering of their networks.<sup>43</sup>

It is not CBT that is seeking to “have it both ways,” Intrado is. CBT only pointed out that its network is compliant with NENA recommendations and guidelines to assure the Commission that CBT acts responsibly in designing and operating its network. But Intrado would change the voluntary nature of NENA recommendations by making their compliance mandatory. In its Initial Brief Intrado claims that it is “not trying to ‘dictate’ how CBT routes its traffic within its own network.”<sup>44</sup> If that is true, then Intrado should withdraw its demands that CBT implement line attribute routing, that CBT deliver traffic to multiple points on Intrado’s network and that CBT deliver traffic to a POI outside the LATA. Intrado should let CBT decide how to engineer its network and how it will get its customers’ calls to Intrado. If Intrado is not trying to dictate how CBT runs its own network, then why does Intrado make these demands? The Commission should take Intrado at its word and reject Intrado’s position on every issue where Intrado is trying to control CBT’s network design and operation.

**Issue 6: Intrado Should Not Be Allowed To Charge CBT For Interconnection Trunk Ports**

Intrado seeks to charge CBT for interconnection trunk ports when CBT interconnects to Intrado’s network. This is unlike any other carrier with whom CBT interconnects. CBT has never charged or been charged for interconnection trunk ports. Intrado should be precluded from imposing trunk port charges on CBT because the cost of trunk ports is contained within “transport and termination” rates, which the Parties have agreed not to charge each other for the

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<sup>43</sup> CBT Exhibit 9, at p. 12, line 18.

<sup>44</sup> Intrado Initial Brief, pp. 26-27.

exchange of 911 traffic.<sup>45</sup> Despite Intrado's claims to the contrary, when the Commission established the rates for transport and termination in CBT's TELRIC proceeding,<sup>46</sup> the cost of interconnection trunk ports was built into CBT's reciprocal compensation rates. The Commission did not establish a separate rate for interconnection trunk ports, even though the Commission approved hundreds of different rate elements in CBT's TELRIC proceeding.

Intrado claims that it is under no obligation to charge CBT the same rates as CBT charges it, arguing that FCC Rule 51.711(b) only applies to transport and termination, not interconnection facilities. However, nowhere does Intrado cite to any rule establishing that Intrado may charge CBT for interconnection facilities. In the FCC's Virginia arbitration order, the FCC determined that the rates that CLECs charge ILECs for interconnection facilities are not covered by the Act, but are governed by state law.<sup>47</sup> It directed ILECs to address their concerns to state commissions and made no decision on what charges would be appropriate under state law. Since the Commission approved CBT's transport and termination rates as including the cost of interconnection trunk ports, in this case the rate reciprocity rule should apply and Intrado should not be allowed to bill CBT for interconnection trunk ports.

If for any reason Intrado is allowed to charge CBT for interconnection trunk ports, then CBT should be allowed to do the same. Furthermore, CBT must be allowed to control the number of trunk ports it uses. The Commission should not grant Intrado's request that CBT be forced to connect each of its end offices directly to Intrado's selective router with redundant direct end office trunks. As compared to CBT's proposal to interconnect only through its

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<sup>45</sup> Intrado agrees that intercarrier compensation charges for the transport and termination of 911 traffic would not be exchanged between the Parties. *See* Tr. I, p. 240.

<sup>46</sup> Case No. 96-899-TP-ALT.

<sup>47</sup> *Virginia Arbitration Order*, ¶¶ 588-89.

selective router, Intrado's request would force CBT to multiply the number of trunk ports and greatly increase the cost of interconnection unnecessarily.

### **CONCLUSION**

For the foregoing reasons, CBT respectfully requests that the Commission adopt its positions and proposed language as set forth in the Joint Issues Matrix.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on this 27th day of August 2008, I electronically served the foregoing Response of Cincinnati Bell Telephone Company LLC to Petition for Arbitration on the following:

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