

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO


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

ENTRY

The Commission finds:

- (1) Pursuant to its February 5, 2008, Finding and Order, as clarified in its February 13, 2008, Supplemental Finding and Order and its April 2, 2008, Entry on Rehearing, the Commission determined that Intrado Communications Inc. (Intrado) is a telephone company pursuant to Section 4905.03, Revised Code, and Rule 4901:1-7-01(S), Ohio Administrative Code (O.A.C.), and a public utility pursuant to Section 4905.02(B), Revised Code. The Commission certified Intrado to provide competitive emergency telecommunications services in Ohio. The Commission stated that certification was to occur on a countywide basis in order to ensure that all public safety answer points (PSAPs) in a given county are served by the same competitive emergency services telecommunications carrier for the purpose of provisioning seamless 9-1-1 service. To this end, the Commission required that:

Intrado, 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, [voice over Internet protocol] VoIP etc.). The [incumbent local exchange carrier] ILEC shall continue to act as the 9-1-1 system service provider for those types of telecommunication services not designated to the competitive emergency services telecommunications carrier by the county. 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. In addition to the ILEC, there may be

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no more than one competitive emergency services telecommunications carrier designated by the county per countywide 9-1-1 system.

Once the countywide 9-1-1 plan has been amended and the competitive emergency services telecommunications carrier is designated to operate within the specified count[ies], the competitive emergency services telecommunications carrier shall file both the amended plan and an amended tariff listing both the county which has chosen it to provide 9-1-1 service and the telecommunication services designated by the county to be carried by the competitive emergency services telecommunications carrier.

(February 5, 2008, Finding and Order at 8, 9).

- (2) On July 25, 2008, as amended on July 29, 2008, Hamilton County Department of Communications (Department) and Intrado (collectively, "Joint Petitioners") filed a joint petition relative to Hamilton County seeking a waiver of the requirement that all PSAPs in a given county be served by the same competitive emergency services telecommunications carrier.<sup>1</sup> Joint Petitioners also request the Commission to clarify that its goal for seamless 9-1-1 services includes transferability across county lines, as well as among PSAPs within a county.

Joint Petitioners describe the process for the implementation of Intrado's 9-1-1 service for those calls originating from persons in the Department's operational district who initiate calls from wireless, VoIP, and competitive local exchange providers. Specifically, the process includes the initial beta testing followed by the limited deployment of 9-1-1 services over Intrado's network during which live 9-1-1 calls from persons using wireless, VoIP, and competitive local exchange providers will be delivered to the Department's emergency communications center for dispatching to first responders.

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<sup>1</sup> Statements in support of the joint petition were filed by the Ohio Chapter of the Association of Public Safety Communications Officials, the Ohio Chapter of the National Emergency Number Association, the Ohio Fire Chiefs' Association, the Buckeye State Sheriffs' Association, and the Ohio Association of Chiefs of Police.

With respect to the requested waiver, Joint Petitioners explain that the Department operates the Hamilton County Communications Center, which is one of the four PSAPs serving Hamilton County. The others are the city of Cincinnati PSAP, city of Norwood Communications PSAP, and the Amberley Village Public Safety PSAP. Joint Petitioners state the other PSAPs in Hamilton County would prefer to wait until Intrado has tested, validated, and deployed services to the Department before agreeing to engage Intrado for their 9-1-1 operational districts. Therefore, Joint Petitioners submit that a "Catch 22" dilemma will arise if the Commission insists upon enforcing the countywide serving requirement (July 25, 2008, Motion at 4).

Additionally, Joint Petitioners assert that the countywide restriction violates Section 4927.02(A), Revised Code, and the pro-competitive principles upon which the approval of Intrado's certification was based (*Id.*). Joint Petitioners contend that, absent a waiver of the countywide restriction, the competitive choice already made by the Department will be thwarted. Joint Petitioners note that, during the initial testing and implementation of Intrado's services, Hamilton County's other PSAPs and the Commission staff will have the opportunity to analyze, test, and evaluate Intrado's services.

- (3) With respect to the requested clarification, Joint Petitioners emphasize that during the limited deployment and migration of services to Intrado, the Department must be able to transfer 9-1-1 calls from its emergency communications center to other public safety agencies in Hamilton County that may be utilizing Cincinnati Bell Telephone Company as their 9-1-1 service provider for all emergency service calls. Joint Petitioners seek confirmation that, in addition to interoperability within Hamilton County, interoperability must also be in place between incumbents and competitive providers in other counties.
- (4) On August 26, 2008, the city of Cincinnati (Cincinnati) filed a motion to intervene in this proceeding. In support of its motion, Cincinnati states that it has a real and substantial interest in this proceeding and that it is so situated that the disposition of this proceeding in the absence of its participation may, as a practical matter, impair or impede its ability to protect that interest. Further, Cincinnati represents that its interest is not adequately represented by any of the existing parties. Specific to its request, Cincinnati disputes Joint Petitioners' representation that the other Hamilton

County PSAPs "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" (August 26, 2008, Motion at 2 citing July 25, 2008, Motion at 2). Cincinnati submits that this statement inaccurately represents the position of the three other Hamilton County PSAPs. Rather, Cincinnati states as follows:

We do not feel any one PSAP should be able to impose its choice of service provider onto any other PSAP. We agree that Hamilton County Communications Center should be allowed to proceed with their testing, but in a way that does not require other PSAPs in our county to follow suit with their preferred vendor should their product prove viable before we have the ability to view other vendor's offerings.

- (5) Cincinnati's motion for intervention should be granted.
- (6) On August 11, 2008, AT&T Ohio filed a memorandum contra the joint waiver request, alleging that the request to allow for the provisioning of service at a level less than a countywide basis is tantamount to an untimely request for rehearing (August 11, 2008, Memorandum Contra at 4). AT&T Ohio takes exception with Joint Petitioners' claim that "the requests made in this joint petition have no effect upon the issues in current arbitration proceedings" (*Id.* at 2 citing Petition at 2). AT&T Ohio avers that while the proposed beta test and the issue of interoperability are not actual issues in the pending Intrado arbitration cases, each implicates issues in pending arbitration cases (*Id.*). In particular, AT&T Ohio conjectures that, in order for a beta test to be performed, interconnection must occur with the other carriers that participate in the provisioning of 9-1-1 service in Hamilton County. Further, AT&T Ohio points out that no such interconnection agreements currently exist and that there are unreimbursed costs that the other affected carriers will incur as a result of any beta testing that is performed (*Id.* at 3). Additionally, AT&T Ohio calls attention to the fact that affected competitive local exchange and wireless carriers will have to incur costs to separate their 9-1-1- traffic destined for the Department's PSAP from their 9-1-1 traffic destined for the other three PSAPs in Hamilton County. Also, AT&T Ohio argues that there are network costs and other unresolved interconnection issues associated with the establishment of the pro-

posed testing arrangement and that such issues are at the heart of the pending Intrado arbitration proceedings (*Id.* at 6). Finally, AT&T Ohio identifies a number of technical issues related to 9-1-1 call transferability/interoperability between PSAPs that arise as a result of the requested waiver (*Id.* at 7, 8).

- (7) On August 20, 2008, the Ohio Telecom Association (OTA) filed its response to AT&T Ohio's memorandum contra. OTA considers Joint Petitioners' request to be an untimely request for rehearing of the Commission's February 5, 2008, Finding and Order, and the requirement that Intrado's 9-1-1 service be provided on a countywide basis. In support of its position, OTA notes that the requested waiver is not limited to a beta test and has no defined termination period (OTA, August 20, 2008, Reply at 1, 2). OTA asserts that "[a]llowing certain 9-1-1 providers to operate on a county-wide basis and others only in parts of a county is a significant policy change that exceeds the scope of the Commission's February 5, 2008, Finding and Order, and should be rejected" (*Id.* at 2). Additionally, OTA points out that all industry entities should have the opportunity to comment on Intrado's new proposal (*Id.*). OTA concurs with AT&T Ohio's contention that Intrado's beta testing should not be funded by other carriers as a result of other carriers being required to incur the expense of interconnecting with Intrado (*Id.*). OTA also agrees with AT&T Ohio that there are a number of unanswered questions and technical issues that must first be resolved (*Id.* at 3).
- (8) On August 22, 2008, Joint Petitioners filed a reply to AT&T Ohio's memorandum contra. Joint Petitioners contend that AT&T Ohio's pleading is based on a number of false assumptions concerning the nature of the waiver requested in the Joint Petition, Intrado's 9-1-1 architecture, and the effect of the requested beta test on various carriers. Joint Petitioners clarify that their waiver request is limited in duration to just the timeframe of the beta test, and is not intended to waive the requirement that PSAPs may be served by competitive emergency services telecommunications carriers only on a countwide basis (Joint Petitioners' August 22, 2008, Reply at 1, 2). In support of their waiver request, Joint Petitioners explain that they did not become aware of the need for the waiver until it attempted to enlist the other PSAPs in Hamilton County for the purpose of performing the beta test (*Id.* at 4).

Contrary to AT&T Ohio's allegations, Joint Petitioners respond that the beta test will have no effect on any of the pending Intrado arbi-

tration proceedings and will not implicate any of the pending arbitration issues. Specifically, Joint Petitioners assert that none of the respondents in any of the pending arbitration proceedings are in any way involved, either technically or financially, in the beta testing. Rather, Joint Petitioners submit that the beta test will only be conducted with willing participants including a competitive local exchange carrier, a wireless carrier, and a VoIP provider with whom Intrado already has the appropriate arrangements. Therefore, Joint Petitioners assert that there will be no need for call transfers with ILECs serving other PSAPs, that there are no open technical issues or costs to be addressed with respect to the beta test, and that no pending arbitration issues will be implicated (*Id.* at 3-8). Intrado does acknowledge that there may be issues following the beta test that the Commission will need to consider on a broader scale.

- (9) On August 29, 2008, Joint Petitioners filed their reply to OTA's response. Joint Petitioners submit that OTA's filing is, in actuality, an untimely filed memorandum contra that should be dismissed (Joint Petitioners' August 29, 2008, Reply at 1, 2). Notwithstanding its procedural objection, Joint Petitioners contend that OTA fails to understand the limited nature of their request. Similar to the arguments presented in their reply of August 22, 2008, Joint Petitioners assert that the requested waiver is not permanent in nature but, rather, is limited to the defined beta test period (*Id.* at 2). Joint Petitioners point out that the Commission, itself, recognized that it would need to monitor this proceeding and make modifications to the 07-1199 Finding and Order, where necessary (*Id.* at 3 citing April 2, 2008, Entry on Rehearing at 17). Additionally, Joint Petitioners reiterate that the beta testing will be funded solely by the participants of the beta test (*Id.*). Finally, Joint Petitioners reject the allegation that there are unanswered technical issues regarding the beta testing and assert that "the requested beta testing will have no more effect on OTA or AT&T from a technical standpoint than it will from a financial standpoint" (*Id.* at 4).
- (10) Upon a review of the arguments raised, the Commission determines that Joint Petitioners' motion should be granted for the limited purpose of engaging in the beta test in the manner represented in the Joint Petitioners' Replies of August 22, 2008, and August 29, 2008. In making this ruling, the Commission is specifically relying upon the representations made by Joint Petitioners indicating that the beta test will only be conducted with willing participants that include a competitive local exchange carrier, a wireless carrier, and a VoIP pro-

vider with whom Intrado already has the appropriate arrangements. Therefore, as represented by Joint Petitioners, there will be no need for call transfers with ILECs serving other PSAPs and there are no open technical issues or costs to be addressed with respect to the beta test and no pending arbitration issues will be implicated by the granting of the waiver (Joint Petitioners' August 22, 2008, Reply at 3-8). The Commission also relies upon the representation that Joint Petitioners assert that the requested waiver is not permanent in nature but, rather, is limited to the defined beta test period (Joint Petitioners' August 29, 2008, Reply at 2). Based on these representations, only those carriers volunteering for the trial should incur any additional cost or technical burden at this time.

- (11) The commencement of the contemplated trial may not occur until such time as the Hamilton County 9-1-1 Plan is amended to define the scope of the proposed trial and to reflect that Intrado is authorized to participate in such trial. Evidence of such an amendment must be docketed in this proceeding before Intrado commences the trial. Additionally, consistent with the Commission's Finding and Order in this proceeding, Intrado must provide the staff with a copy of any contracts related to the beta test.
- (12) In regard to the request for the Commission to clarify that seamless 9-1-1 services include transferability across county lines, as well as among PSAPs within a county, the Commission clarifies that, to the extent that Intrado provisions any actual 9-1-1 service live calls, Intrado is required to provide transferability between all Hamilton County PSAPs, as well as those in the adjacent counties.

It is, therefore,

ORDERED, That Cincinnati's motion for intervention is granted in accordance with Finding (5). It is, further,

ORDERED, That the joint petition is granted consistent with Findings (10) and (11). It is, further,

ORDERED, That the Hamilton County 9-1-1 Plan be amended and docketed in accordance with Finding (11) prior to the commencement of Intrado's proposed trial. It is, further,

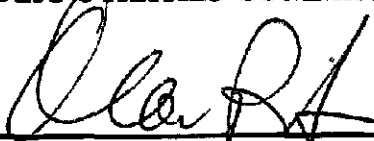
ORDERED, That Intrado provide informal monthly status updates and promptly address any staff inquiries regarding its beta testing. It is, further,

ORDERED, That Intrado provide staff with a copy of any contracts related to the beta test. It is, further,

ORDERED, That the Commission's directive regarding transferability is clarified in accordance with Finding (12). It is, further,

ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

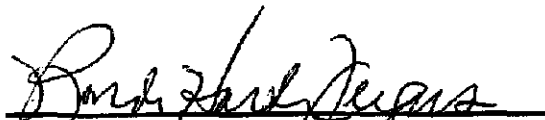
THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



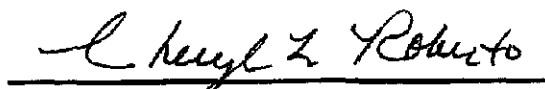
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