

FILE

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September 13, 2007

VIA FEDERAL EXPRESS

Ms. Renee Jenkins
Chief, Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
13th Floor
Columbus, OH 43215-3793

Re: **In the Matter of the Application of Intrado Communications Inc. for
Authority to Provide 9-1-1 Emergency Services throughout the State of Ohio,
Case No. 07-941-TP-UNC**

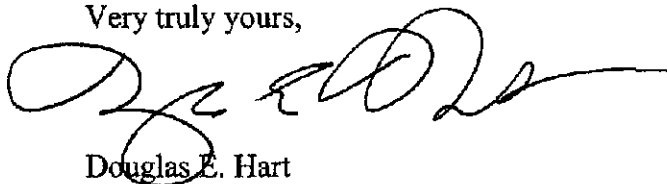
Dear Ms. Jenkins:

Enclosed please find the original and 16 copies of the following documents:

- 1) Motion to Intervene of Cincinnati Bell Telephone Company LLC;
- 2) Memorandum of Cincinnati Bell Telephone Company LLC in Opposition to Motion for Protective Order; and
- 3) Memorandum of Cincinnati Bell Telephone Company LLC in Opposition to Intrado Application for Authority to Provide 9-1-1 Emergency Services.

Please file the original and 15 copies in the above referenced proceeding and please date stamp and return one copy of each document to me in the enclosed self-addressed stamped envelope.

Very truly yours,



Douglas E. Hart

DEH

Enclosures

cc: Craig W. Donaldson
Monique Byrnes

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Intrado)	
Communications Inc. for Authority to Provide)	Case No. 07-941-TP-UNC
9-1-1 Emergency Services throughout the State)	
of Ohio)	

**MEMORANDUM OF CINCINNATI BELL TELEPHONE COMPANY LLC IN
OPPOSITION TO MOTION FOR PROTECTIVE ORDER**

Cincinnati Bell Telephone Company LLC ("CBT") opposes the motion of Intrado Communications Inc. ("Intrado") for a protective order. Intrado commenced this proceeding by filing for authority to provide 9-1-1 Emergency Services throughout the State of Ohio. As part of its Application, Intrado filed an Exhibit D – Description of Services. However, Intrado has sought a protective order prohibiting the disclosure of any part of Exhibit D to the general public.

The motion for protective order cites no legal basis for the requested relief and there is none.¹ The apparent purpose of Intrado's Application is to obtain the right to offer certain services within the State of Ohio. However, at the same time, Intrado takes the position that the actual services it would provide are a secret. Only in a Kafkaesque world could a party seek licensure from a state agency to offer services and simultaneously claim those services are secret.

The Commission's rule governing the granting of a protective order does not permit the relief sought by Intrado. Rule 4901-1-24(D) only permits filing of a document under seal "to the extent that state or federal law prohibits release of the information, including where the information is deemed by the commission, the legal director, the deputy legal director, or the attorney examiner to constitute a trade secret under Ohio law, and *where nondisclosure of the*

¹ CBT notes that the motion was signed and filed by a Monique Byrnes, who has a Florida address and identifies herself as a "Consultant for Intrado Communications, Inc." There is no record at the Ohio Supreme Court of any such person being licensed to practice law in Ohio, a requirement to practice before this Commission. Ohio Admin. Code § 4901-1-08(A).

information is not inconsistent with the purposes of Title 49 of the Revised Code." (emphasis added). Furthermore, redaction is to be limited to such information "as is essential to prevent disclosure of the allegedly confidential information." Rule 4901-1-24(D)(1). The motion for protection is supposed to include a detailed discussion of the need for protection from disclosure and citations of any authorities relied upon.

Intrado cites no authority for its position on confidential treatment. It has not carried its burden of proving that the services it would provide are deserving of trade secret protection. It simply asserts that disclosure of its services would cause it competitive harm. Intrado fails to explain how it could actually provide these services without disclosing what they are. Even if information may have once qualified as a trade secret, once it is publicly disclosed, it loses any status that it ever had as a trade secret. *State ex rel. Rea v. Dept. of Education* (1998), 81 Ohio St.3d 527, 692 N.E.2d 596. Intrado claims to be authorized to provide emergency services in over thirty states, but fails to explain how it is able to actually provide those services while keeping them secret.

Intrado apparently concedes that the information contained in Exhibit D is required to be submitted to the Commission as part of its Application or it would not have filed it. Intuitively, an Application seeking authorization from the Commission to offer services would have to identify what those services are. The very identity of and a brief description of the services it seeks to offer do not deserve secrecy. Intrado fails to explain why any truly non-public proprietary information (such as financial data) that may be contained in Exhibit D could not be redacted, while leaving the essential details necessary to even understand what services Intrado intends to offer. Intrado perversely contends that public disclosure of the nature of the services it intends to offer would be contrary to the public interest. How can the public know if the services

remain secret? Before it can be determined if granting Intrado's Application would be in the public interest, the public first needs to know what it is Intrado intends to do.

Failure to publicly disclose Exhibit D (or at least *some* description of the services that Intrado intends to offer) would be inconsistent with the purposes of Title 49 of the Revised Code. Intrado must believe that it needs the Commission's *imprimatur* in order to offer its services. By definition, those services have to be disclosed as part of the certification process. The purpose of Title 49 is to govern public proceedings involving utility services in Ohio. Intrado's request for secrecy would defeat the entire purpose of such a proceeding and should be rejected as contrary to Commission Rule 4901-1-24.

For the foregoing reasons, CBT's urges the Commission to deny the motion for protective order.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene was served by regular U.S. Mail, postage prepaid, this 13th day of September, 2007, upon the persons listed below.



Douglas E. Hart

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