

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.)

ARBITRATION AWARD

The Commission, considering the petition, the evidence of record, posthearing briefs, and otherwise being fully advised, hereby issues its arbitration award.

APPEARANCES:

Cahill, Gordon & Reindel, L.L.P. by Ms. Cherie R. Kiser, Suite 950, 1990 K Street, NW, Washington, DC 20006, Ms. Rebecca Ballestero, 1601 Dry Creek Drive, Longmont, Colorado 80503, on behalf of Intrado Communications, Inc.

Mr. Douglas E. Hart, 441 Vine Street, Suite 4192, Cincinnati, Ohio 45202, on behalf of Cincinnati Bell Telephone Company.

I. BACKGROUND

Under Section 252(b)(1) of the Telecommunications Act of 1996 (the Act),¹ if parties are unable to reach an agreement on the terms and conditions for interconnection, a requesting carrier may petition a state commission to arbitrate any issues which remain unresolved despite voluntary negotiation under Section 252(a) of the Act.

On August 22, 2007, the Commission issued its carrier-to-carrier rules in *In the Matter of the Establishment of Carrier-to-Carrier Rules*, Case No. 06-1344-TP-ORD. The rules came into effect on November 30, 2007. Rules 4901:1-7-08 and 4901:1-7-09, Ohio Administrative Code (O.A.C.), govern the negotiation and arbitration of interconnection agreements under 47 U.S.C. 252.² Under the rules, an internal arbitration panel is assigned to recommend a resolution of the issues in dispute if the parties cannot reach a voluntary agreement.

¹ The Act is codified at 47 U.S.C. 151 et seq.

² The rules supersede comparable provisions set forth in the Commission's Guidelines for Mediation and Arbitration issued in *In the Matter of the Implementation of the Mediation and Arbitration Provisions of the Federal Telecommunications Act of 1996*, Case No. 96-463-TP-UNC (Entry issued July 18, 1996).

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II. HISTORY OF THE PROCEEDING

On February 5, 2008, the Commission issued certificate number 90-8000 to Intrado Communications, Inc. (Intrado), granting it authority as an emergency services telecommunications carrier.³

In the Commission's carrier-to-carrier rules, Rule 4901:1-7-09, O.A.C., specifies that "[a]ny party to the negotiation of an interconnection agreement may, during the period from the 135th to the 160th day (inclusive) after the date on which a local exchange carrier receives a request for negotiation, petition the commission to arbitrate any open issues." By mutual agreement, the parties established April 21, 2008, as the 160th day (Arbitration Petition p. 7, footnote 14).

On April 21, 2008, Intrado filed a petition for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with Cincinnati Bell Telephone Company (CBT) pursuant to Section 252(b) of the Act. In its petition, Intrado presented six issues for arbitration.

On April 21, 2008, with its petition for arbitration, Intrado filed a motion pro hac vice to allow Chérie Kiser, Angela F. Collins, and Rebecca Ballestero to practice before the Commission. The attorney examiner granted the motion by entry issued June 30, 2008.

CBT filed a response to Intrado's petition on June 16, 2008. In its response, CBT added three additional issues.

On June 30, 2008, after consultation with counsel, the attorney examiner issued an entry summarizing the schedule for the arbitration proceeding. The parties agreed to the following schedule:

Discovery Completion	July 1, 2008
Arbitration Package	July 22, 2008
Hearing	July 29-30, 2008
Initial Briefs	August 13, 2008
Reply Briefs	August 27, 2008

On July 22, 2008, the parties filed arbitration packages containing exhibits and the written testimony of their witnesses. On the same date, the parties jointly filed a matrix setting forth the issues to be arbitrated and the parties' respective positions.

³ 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 (Case No. 07-1199-TP-ACE).

III. ISSUES FOR ARBITRATION

In Intrado's arbitration package, Intrado and CBT presented the following issues for arbitration:

- (1) Whether CBT may deny Intrado its rights under Section 251(c) of the Act by claiming that Intrado does not offer telephone exchange service or exchange access service.
- (2) What is the most efficient point of interconnection (POI) for the exchange of E-911 calls to Intrado and CBT public safety answering point (PSAP) customers?
- (3) Should the parties be obligated to utilize the most efficient call setup and termination technologies that reduce points of failure in 911 call delivery?
- (4) Is Intrado required to accept third-party originated 911 service or E-911 service traffic from CBT over trunk groups installed exclusively for the mutual exchange of Intrado and CBT traffic?
- (5) Should the parties adhere to the National Emergency Number Association (NENA) and Federal Communications Commission (FCC) Network Reliability and Interoperability Council (NRIC) recommended standards for trunking?
- (6) What should each party charge the other party for facilities, features, and functions necessary for the mutual exchange of 911 service and E-911 service traffic?
- (7) Should Intrado be required to timely provision interconnection trunks?
- (8) Should the interconnection agreement address non-telecommunications traffic?
- (9) Should other redlined language be resolved?

In the matrix, the parties advised the panel that issues 7, 8, and 9 have been resolved and no longer need to be arbitrated.

Issue 1	Whether CBT may deny Intrado its rights under Section 251(c) of the Act by claiming that Intrado does not offer telephone exchange service or exchange access service.
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Intrado states that it wants to include language in the interconnection agreement specifying that the provision of competitive emergency telecommunications services has been deemed to be telephone exchange service by the Commission. CBT, on the other hand, does not want to include language that makes any reference to competitive emergency telecommunications services being telephone exchange service. The contested language, as it appears in the issues matrix, reads as follows:

Intrado has been granted authority to provide emergency telecommunications services (which have been deemed to be telephone exchange services by the Commission)...

In its initial brief, Intrado relies on the Commission's Finding and Order issued on February 5, 2008, in Case No. 07-1199-TP-ACE that states that Intrado provides telephone exchange service when it provides 911/E-911 services to Ohio counties and PSAPs (Intrado Br. 24). It is Intrado's belief that the Commission has already decided the issue as a matter of law (Intrado Reply Br. 3). Moreover, the service that the Commission considered in Intrado's certification proceeding is the same service that Intrado intends to provide when it interconnects with CBT. Intrado's opinion is that the Commission's order speaks for itself and the Commission's findings should be reflected in the parties' interconnection agreement (*Id.*). According to Intrado, CBT disagrees that the provision of competitive emergency telecommunications services, by itself, is tantamount to telephone exchange service (Intrado Br. 25).

Intrado states that it desires to include the language to memorialize the Commission's findings and to reduce the potential for future disputes concerning which services are covered by the interconnection agreement. Intrado points out that there are provisions in the interconnection agreement that govern telephone exchange services other than 911/E-911 services. It is Intrado's intent, by including the language, to address all telephone exchange services covered by the interconnection agreement (Intrado Br. 25-26).

It is CBT's argument that its proposed language does not involve any unnecessary characterizations of either Intrado's rights or the Commission's finding and order certifying Intrado as a competitive emergency telecommunications services carrier (CETSC). CBT points out that the Commission stated that Intrado, as a CETSC, would be engaged in the provision of telephone exchange service. However, CBT makes the distinction that the Commission did not expressly say that the service to be provided by Intrado is "telephone exchange service" itself. Clarifying its point, CBT emphasizes that Intrado only proposes to terminate 911 calls initiated by customers of other dial tone providers. Intrado will not provide a service that allows the origination of calls. Only by Intrado combining its service with originating carriers does CBT believe that Intrado is engaged in the provision of telephone exchange service. CBT states that Intrado's service is merely a component of such service. Without an originating dial tone provider, CBT

doubts whether Intrado's service would qualify as "telephone exchange service" (CBT Initial Br. 4-5).

CBT emphasizes that, taking into consideration the terms of the interconnection agreement, Intrado has not been deprived of any rights under Section 251 of the Act (CBT Initial Br. 3, 5). Intrado's rights would remain the same with or without the proposed language (CBT Initial Br. 5). CBT believes that Intrado is attempting to clarify or expand the Commission's order indirectly. Moreover, CBT contends that this arbitration is not an appropriate venue to clarify the Commission's intent. The issue would be more appropriately argued in another case. Stating that there is no legitimate purpose for including Intrado's proposed language, CBT urges the Commission to reject Intrado's proposal (CBT Initial Br. 5).

In response to CBT's argument, Intrado replies that CBT is attempting to make a distinction where none exists. Intrado rejects CBT's assertion that an originating dial tone provider is necessary for Intrado's 911/E-911 services to qualify as telephone exchange services (Intrado Reply Br. 3-4). Intrado contends that the Commission made no such distinction in its certification order and that none exists under law. To substantiate its position, Intrado points out that the FCC has found that data transmissions and directory assistance providers may constitute telephone exchange service, notwithstanding an absence of dial tone. Citing these examples, Intrado concludes that dial tone is not required for telephone exchange service (Intrado Reply Br. 4-5).

Intrado states that it appears that the impetus behind CBT's language is that it seeks the ability to deny Intrado its interconnection rights in the future (Intrado Reply Br. 3-4). Intrado notes that CBT's witness acknowledges that there are provisions in the interconnection agreement that govern services beyond 911 and E-911 services. By refusing to acknowledge that Intrado offers telephone exchange services, CBT could prevent Intrado from taking full advantage of the interconnection agreement in the future (Intrado Reply Br. 4).

ISSUE 1 ARBITRATION AWARD

We agree with CBT that Intrado's proposed language should not be included in the parties' interconnection agreement. The language suggested by Intrado not only goes beyond what is necessary for the interconnection agreement, but it also unnecessarily raises the potential for undetermined consequences.

The finding and order issued in Case No. 07-1199-TP-ACE established Intrado's entitlements as a CETSC. The Commission determined that Intrado is a telephone company pursuant to Section 4905.03, Revised Code, and Rule 4901:1-7-01(S), O.A.C., and a public utility pursuant to Section 4905.02(B), Revised Code. Furthermore, the

Commission concluded that Intrado is engaged in the provision of telephone exchange service pursuant to Section 251 of the Act. On this basis, the Commission determined that Intrado is entitled to the rights and obligations of telecommunications carriers pursuant to Sections 251 and 252 of the Act. In carving out Intrado's status as a CETSC, the Commission noted that Intrado's exchange activities are limited in scope and do not equate to those of a competitive local exchange carrier (CLEC). In fact, the Commission specifically advised Intrado that if it sought to engage in the provision of additional services that would cause the company to function like a CLEC, Intrado must obtain approval to amend its certificate.⁴

The Commission does not find it either necessary or useful for the interconnection agreement to attempt to summarize the Commission's decision in Case No. 07-1199-TP-ACE. It is sufficient and prudent simply to observe the authority granted to Intrado in Case No. 07-1199-TP-ACE. The Commission is concerned that including language summarizing its decision in this agreement may have unintended consequences, depending on how that summary may in the future be used. However, it is appropriate, in the context of this interconnection agreement to clarify the nature of Intrado's service offering. Therefore, the Commission will require the parties to use the following language, quoting the Commission's decision in Case No. 07-1199-TP-ACE, in Recital C.

INTRADO COMM. has been granted authority to provide competitive emergency telecommunications services within the areas of Ohio where it intends to provide services pursuant to this agreement. The Commission has deemed that "...while Intrado is engaged in the provision of telephone exchange services pursuant to Section 251 of the 1996 Act, its telephone exchange activities are restricted in scope...." Nothing in this agreement shall prevent INTRADO COMM from seeking expanded authority from the Commission to offer other services.

Issue 2: What is the most efficient point of interconnection (POI) for the exchange of E-911 calls to Intrado and CBT PSAP customers?

Intrado explains that, where Intrado serves the designated PSAP in a particular geographic area, Intrado is proposing language requiring CBT to transport its end users' 911 calls, destined for Intrado's PSAP customer, to two geographically diverse points of interconnection on Intrado's network. As proposed by Intrado, these two points of interconnection would be physically located on Intrado's diverse selective routers (Hicks Testimony at 12). Intrado contends that two geographically diverse POIs on Intrado's network, for the delivery of CBT's end-users' 911 traffic, makes good business sense

⁴ Case No. 07-1199-TP-ACE, Finding and Order issued February 5, 2008, Finding 15.

because of the critical nature of the 911 network (Hicks Testimony at 16). Intrado argues that the physical architecture arrangements Intrado seeks are critical to issues of reliability, redundancy, and eliminating points of failure for 911/E-911 services (Hicks Testimony at 18).

Intrado contends that while an arrangement in which the POI is on the ILEC's network may have developed as the common network architecture arrangement for the exchange of plain old telephone service traffic, 911 traffic historically has been handled in a different manner (Hicks Testimony at 12-13). Intrado contends that, although the Act requires the POI to be on the ILEC's network, the Act also says that interconnection should be equal in quality. Intrado claims that its proposal is consistent with the way in which CBT interconnects with other 911 service providers today. Intrado further argues that its proposal is consistent with the requirements CBT imposes on CLECs (Hicks Testimony at 17).

Intrado explains that it plans to deploy at least two selective routers in Ohio. One of those selective routers will be within CBT's local access and transport area (LATA). Additional selective routers will be located at points outside of CBT's LATA (Hicks Testimony at 17). While CBT argues that this would require it to establish a POI outside of its service territory and LATA, Intrado argues that the concept of LATAs does not apply to CBT or in the context of 911 traffic. Intrado contends that this is so because CBT is permitted to, and routinely does, carry interLATA traffic. In addition, Intrado notes that the courts and the FCC have said that any restrictions on carrying interLATA traffic do not apply to 911 (Hicks Testimony at 17). Intrado avers that CBT has made no claim that it is legally prohibited from carrying traffic outside of the LATA (Intrado Initial Br. 12). This, Intrado claims, is because there are no restrictions on CBT's ability to carry 911 service traffic destined for Intrado's network outside the LATA. Accordingly, Intrado argues, Intrado's proposed language should be adopted (Intrado Initial Br. 13).

CBT contends that the issue as put forth by Intrado is not about the most efficient means of interconnecting the two networks. Instead, CBT believes that it is about Intrado's attempt to dictate the design of CBT's network and to impose requirements and costs on CBT that are not permitted by the Act. CBT explains that there are two contract provisions at issue. One is contract language deleted by Intrado that would require the placement of the POI to be within the LATA. The second is proposed language by Intrado that would require two geographically diverse POIs on Intrado's network for delivery of CBT's end users' 911 calls to PSAPs served by Intrado (CBT Initial Br. 6).

CBT argues that, legally, Intrado's demand is baseless (CBT Initial Br. 7). CBT avers that the FCC and Commission rules are clear that, in a Section 251(c) interconnection agreement, the requesting carrier is entitled to select the POI, but it must be within the ILEC's network (47 C.F.R. §51.305, Rule 4901:1-7-06(A)(5) O.A.C.). CBT avers that, since 47

U.S.C. Section 251(c)(2)(B) requires the POI to be within CBT's network, the POI must therefore be in the LATA because CBT's entire service territory is contained within a single LATA (Tr. II at 9, CBT Initial Br. 7). Additionally, CBT argues that the requirements of Section 251(c)(2) are conjunctive; all must apply simultaneously. Thus, CBT argues, the requirements to provide interconnection that is "equal in quality" and "at any technically feasible point within the (incumbent) carrier's network" cannot be divorced and must be met simultaneously (CBT Reply Br. 3).

CBT avers that each carrier is responsible for facilities on its side of the POI. The type of interconnection Intrado is requesting, that requires CBT to establish points of interconnection at multiple locations on Intrado's network at CBT's cost, does not comport in any respect with the rights and obligations established under Section 251(c) of the Act (CBT Initial Br. 7). CBT argues that Intrado cannot designate a POI that is outside the ILEC's local serving area, or even more extreme, outside the single LATA where the ILEC provides local service (Tr. II at 36, 56). CBT explains that Intrado intends to locate a selective router in Columbus and demands that CBT provide the necessary facilities to deliver CBT's originating 911 traffic from Cincinnati to Intrado's selective router located in Columbus (Tr. I at 152-53). CBT argues that Intrado's proposal defies reason and claims that no CLEC has ever contended that CBT had to interconnect with it outside CBT's own LATA (Tr. II at 33). CBT contends that when it interconnects with an adjacent ILEC serving PSAPs outside CBT's territory, the adjacent ILEC provides connectivity from CBT's service area to that ILEC's selective routers (Tr. II at 74, 84).

CBT contends that Intrado's proposed language will force CBT to deliver traffic to multiple POIs at locations on Intrado's network that Intrado selects. CBT claims that there is nothing in Section 251 of the Act that supports Intrado's request that the Commission require CBT to establish multiple POIs on Intrado's network (CBT Initial Br. 10-11).

ISSUE 2 ARBITRATION AWARD

As presented in the record in this proceeding, there are two severable issues to be addressed: how many points of interconnection are required and where any point or points of interconnection will be located.

Consistent with its findings in Case No. 07-1216-TP-ARB⁵, the Commission agrees with CBT that the requirements found in Section 251(c) of the Act are applicable only to interconnection by a requesting carrier within the ILEC's network. The Commission, in Case No. 07-1216-TP-ARB, also found that, when Intrado is the 911/E-911 service provider

⁵ Arbitration Award in Case No. 07-1216-TP-ARB, *In the Matter of the Application of Intrado Communications Inc. for Arbitration Pursuant to Section 252 (b) of the Communications Act of 1934, as Amended, to Establish an Interconnection Agreement with United Telephone Company of Ohio and United Telephone Company of Indiana (collectively, "Embarq")* issued September 24, 2008 (Intrado/Embarq Award).

to the PSAPs in a county, the incumbent becomes one of many service providers, along with CLECs, wireless providers, and VoIP providers. Similarly, these providers must request interconnection with Intrado in order to terminate their 911 traffic to a PSAP served by Intrado. The reasoning behind those two findings in Case No. 07-1216-TP-ARB applies equally in this proceeding. Additionally, the Commission notes that there is no requirement under any part of Section 251 of the Act that the requesting carrier establish more than one point of interconnection.

In addition, even if this arrangement were subject to Section 251(c), CBT's selective routers are not as geographically diverse as Intrado states that its selective routers will be. Thus, to compel CBT to provision trunking to geographically diverse points of interconnection on Intrado's network would cause CBT to modify its network to provide interconnection that is superior in quality to that which it provides "to itself or any subsidiary, affiliate or any other party." While the Act requires the provision of interconnection "at least equal in quality," superior interconnection quality is not required. In addition, Intrado's proposal would require CBT to construct facilities that would not otherwise be deployed for its own use. Absent compensation from the carrier requesting the construction, this is neither required under the Act nor equitable [*In the Matter of the Petition of Worldcom, Inc. Pursuant to Section 252(E)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, FCC Memorandum Opinion and Order, CC Docket No. 00-218, 17 FCC Rcd. 27,039, F.C.C., July 17, 2002, at 155; see also *Local Competition Order*, 11 FCC Rcd at 15614-15, at 225 (henceforth, *Local Competition Order*)].

Although the Commission acknowledges that there may be advantages, from both a technical and a business standpoint, to having multiple points of interconnection, each of the parties must weigh whatever advantage that arrangement provides them against other mitigating factors, such as their costs. For these reasons, the Commission will not require CBT, at this time, to establish multiple points of interconnection on Intrado's network where Intrado is the 911/E-911 network provider to the PSAP, though the parties are free to negotiate additional point(s) as set forth below.

Because Intrado has indicated its intention to establish one selective router within CBT's LATA, the question of whether the point of interconnection should be within or outside of CBT's service territory would appear to be moot. However, plans can and do change. In Case No. 07-1216-TP-ARB, the Commission clarified that Embarq was only responsible for delivering its traffic to a point of interconnection located within Embarq's service territory. The Commission similarly directs the parties to incorporate CBT's proposed language requiring the single point of interconnection to be within the LATA. Again, the Commission's ruling does not preclude the parties from otherwise mutually

agreeing to an additional point or points of interconnection at any technically feasible point inside or outside of CBT's territory.

To the extent that, at some future point in time, Intrado's certification allows it to be the requesting carrier for the purpose of terminating 911 traffic on CBT's network, or for the mutual exchange of traffic as a CLEC, the Commission concurs with CBT that requirements under Section 251(c)(2) must all simultaneously be met.

Issue 3 Should the parties be obligated to utilize the most efficient call setup and termination technologies that reduce points of failure in 911 call delivery?

With regard to the disputed contract language for this issue, the primary disagreement is whether CBT, when Intrado is the E-911 service provider to the local PSAP, should be required to provision separate and identifiable trunk groups from each CBT end office to Intrado's selective router. This is referred to as direct end office trunking. Secondly, in a competitive 911 environment, where not all PSAPs in a service area may be served by the same 911 provider, the use of direct end office trunking requires the end office, in many instances, to determine which 911 provider should terminate a given 911 call. Intrado proposes that a methodology, which it refers to as line attribute routing, be used to enable the end office to make that determination (Hicks Testimony at 19).

Intrado claims that direct end office trunking and its requisite line attribute routing is technically feasible, and that similar processes, also known to CBT as "class marking," are in use today for the routing of long distance calls or mapping wireless calls to tax codes (Hicks Testimony at 26, Melcher Testimony at 11). Intrado explains that line attribute routing involves setting the appropriate line attributes in the central office line database for each line. The line attributes are set during the service provision and automated recent line change processes. The function of the line attributes is to direct 911/E-911 calls to the appropriate trunk and, ultimately, to the appropriate selective router. These calls would then be delivered over direct trunks from the CBT central office to the appropriate selective router (Hicks Testimony at 14).

In contrast to Intrado's proposal, CBT proposes using its existing end office trunks to connect to its existing selective router. CBT's selective router would handle the routing of calls to either a PSAP served by CBT or, over an inter-selective router trunk, to Intrado's selective router to be directed to a PSAP served by Intrado, CBT's selective router functioning in effect as a tandem switch (Joint Issue Matrix at 3, CBT Ex. 8 at 15, Peddicord Testimony at 16).

Intrado contends that line attribute routing enables trunk route selection and transport configurations at the originating office level, thereby eliminating the need to introduce an additional and unnecessary stage of switching at CBT's selective router. Intrado argues that eliminating this unnecessary stage of switching via CBT's existing selective routers reduces the number of possible points of failure in the 911 call path. Intrado claims its proposal improves network reliability (Hicks Testimony at 19). Furthermore, Intrado argues, by retaining CBT's selective router in the call path, PSAPs motivated to choose a competitive provider to obtain improved service quality or enhanced control over originating office trunking are relegated to what they may perceive as sub-quality service and the limitations of the legacy 911 network provided by CBT. Intrado avers that, in order to deny Intrado its proposed manner of interconnection, CBT is required by the Local Competition Order at ¶¶198, 203 to demonstrate, by clear and convincing evidence, that utilizing direct trunks and line attribute routing is either not technically feasible or that specific and significant adverse impacts would result from Intrado's requested interconnection agreement. Intrado states that CBT has not met this burden (Intrado Initial Br. 14).

Intrado agrees with CBT that class marking is an inferior form of 911/E-911 call routing because it utilizes taxing authority data that are not validated to the Master Street and Address Guide (MSAG). Intrado proclaims that its proposed line attribute routing, while using similar line attributes in the originating end office as class marking, is a reliable method of performing accurate call routing to the appropriate selective router since the line attribute values are based on the MSAG-validated address of the caller (Hicks Testimony at 21-22).

Intrado recognizes that CBT may incur some initial costs to enable line attribute routing and direct trunking. Such investments, Intrado claims, will be offset by the savings that CBT will realize from reduced switch maintenance and repair costs. CBT would also avoid the need to correct downstream services address errors detected by Intrado's ALI database management process (Hicks Testimony at 25-26).

Intrado contends that CBT imposes similar direct trunking requirements on CLECs when CBT is the designated E-911 network service provider to the PSAP (Intrado Petition for Arbitration, Attachment 4 at Section s.8.2(a)). Intrado claims that it seeks the same arrangement with CBT (Tr. I at 176-177).

Intrado avers that CBT ignores the main reason Intrado supports the use of line attribute routing over direct trunks. According to Intrado, the main reason for line attribute routing is to ensure that critical 911 calls receive the highest quality of service when they are exchanged between the parties' networks (Tr. I at 206-07). Intrado contends that CBT's claims that line attribute routing is unnecessary is disingenuous because CBT admits that it currently utilizes the same types of direct trunking arrangements within its

own network (Intrado Reply Br. at 11-12, citing CBT Br. at 12, 14). Intrado declares that CBT has not demonstrated any incremental costs for the establishment of line attribute routing (Tr. I at 200).

CBT contends that Intrado is seeking to insert itself into how CBT handles 911 calls originating on its network before the calls are delivered to Intrado. To CBT, that is unprecedented under a Section 251 interconnection agreement (Peddicord Testimony at 15). CBT argues that only CBT can determine the most efficient means to handle 911 calls within its network. CBT further argues that Intrado's proposal is unnecessary because CBT's selective router performs the call sorting function for all CBT subscribers and delivers all necessary call detail information to PSAPs or interconnected carriers (Peddicord Testimony at 14). CBT claims that no interconnecting carrier dictates how another carrier operates its network on its side of the POI so long as calls are handed off using a standard protocol that allows the receiving carrier to terminate the call properly (Peddicord Testimony at 15).

CBT contends that the way it proposes to deliver 911 calls to Intrado from CBT's selective routers is how CBT exchanges 911/E-911 traffic with other ILECs today. CBT directs all 911 traffic from its end offices to its selective router. The selective router, in turn, determines the ultimate destination of the call. CBT explains that if the call needs to be terminated to a PSAP serviced by another ILEC, CBT's selective router delivers that call over trunks to the other ILEC's selective router, which then delivers the call over its network to the PSAP it serves. CBT argues that there is no reason to treat traffic to a PSAP that may be served by Intrado any differently than traffic to a PSAP served by an adjacent ILEC. In either case, CBT argues, calls are efficiently routed through CBT's selective routers to the other carrier. There is no need for class marking or line attribute routing as suggested by Intrado (Peddicord Testimony at 16).

CBT points out that its standard interconnection agreement language, initially proposed by a CLEC (MCI Metro), requires CLECs to establish direct end office trunking for the delivery of its end users' 911 traffic to CBT's selective router. Because CBT had no objections to that arrangement if the CLEC or CLECs were willing to do it, there was no reason for CBT to change MCI Metro's proposal for direct trunks to CBT's selective routers. CBT states that over the past decade, involving over 50 interconnection agreements, no CLEC has ever raised an issue with CBT's standard language (Peddicord Testimony at 17). CBT notes that it would have no objection to a CLEC or other interconnecting carrier delivering 911/E-911 traffic to it from a tandem switch or utilizing its own selective router to deliver traffic to CBT's network (Peddicord Testimony at 18).

CBT explains that as a practical matter the architecture of CLEC networks is usually quite different from CBT's. CBT states that it is not aware of a CLEC that has multiple end office switches. Each CLEC that interconnects with CBT generally utilizes a single switch

serving CBT's entire territory. Therefore, CBT claims it is a non-issue, and CBT has never required a CLEC to have more than one set of 911 interconnection trunks. As CBT points out, its network, on the other hand, consists of numerous end office switches that are all connected to a central tandem switch. CBT argues that installing direct end office trunks from each end office switch to another carrier's network is a vastly larger and more complex undertaking than installing a single set of interconnection trunks from the tandem switch. CBT avers that it would not insist on Intrado providing direct end office trunks to deliver its traffic to CBT (Peddicord Direct at 18).

Setting aside whether Intrado has a legal right to demand line attribute routing and direct trunks, CBT contends Intrado has not adequately demonstrated that it is either necessary or cost effective to do so (CBT Initial Br. 14). CBT contends that while Intrado relies on snippets of language from NENA guidelines regarding the efficacy of certain network arrangements, Intrado has not produced a single NENA reference describing the use of line attribute routing. Nor has Intrado produced a NENA guideline recommending or mandating line attribute routing (Tr. I at 210). In contrast, CBT contends that it has produced several NENA technical documents describing the interconnection and interoperation of multiple selective routers consistent with CBT's proposal (Tr. I at 218-23, CBT Exhibits 4 and 5).

CBT argues that Intrado's fears that CBT's use of its selective router to route 911 calls to Intrado will introduce an additional potential point of failure are not supported in the record. (CBT Initial Br. 15). CBT contends that, according to NENA documentation, as well as CBT's experience, such failures are rare (Tr. II at 81). CBT avers that even NENA recognizes that routing errors occur on a very small percentage of calls, so it recommends against enormous efforts to solve a small problem (Tr. I at 213-217, CBT Ex. 3). CBT contends that NENA recommends simple solutions over complex ones, as well as the application of cost-benefit analysis and common sense before implementing new systems (Tr. I at 213-14).

CBT contends that Intrado's position on introducing additional points of failure is also very inconsistent with Intrado's own network proposals. CBT highlights that Intrado touts the advanced and flexible features of its network by claiming that a national wireless carrier could deliver its Cincinnati 911 traffic to Intrado in Florida. CBT argues, however, that Intrado does not seem to care how many points of failure a wireless carrier might introduce in its network by hauling its 911 traffic from Cincinnati for delivery in Florida (Tr. 1 at 229-31). Nor does Intrado restrict CLECs, wireless, or VoIP carriers from using third parties to aggregate their 911 traffic before delivering it to Intrado's network, according to CBT (Tr. 1 at 231). CBT avers that NENA documents, relied upon by Intrado to support network redundancy, show 911 call paths potentially going through three switches. CBT further contends that Intrado recognizes that the greater distance telephone traffic travels, the more opportunities for failure are created (Tr. I at 171-73). Nevertheless,

Intrado still demands that CBT haul its 911/E-911 traffic to Columbus for delivery to Intrado (Tr. I at 152-53).

CBT also argues that Intrado knows that CBT's network is not presently capable of performing "line attribute routing" as Intrado describes the term (Tr. I at 31-32). According to CBT, Intrado's use of 1+ dialing as an analogy for how line attribute routing could be implemented by CBT is inappropriate. Such an analogy, argues CBT, ignores the substantial work that was needed to implement 1+ dialing. Moreover, CBT points out, the analogy fails to consider that the costs of equal access were borne by the interexchange carriers for whose benefit it was implemented (Tr. I at 28-31). CBT notes that Intrado admits there would be costs to implement line attribute routing but that Intrado does not know how much those costs would be (Tr. I at 37-38). CBT argues that even though these costs would only be incurred because of Intrado's insistence upon line attribute routing and direct trunking, Intrado denies any responsibility for them (Tr. I at 298). CBT rejects Intrado's unsupported assertion that CBT would save switch maintenance costs if it implemented line attribute routing (Hicks Testimony at 26). CBT contends that it would incur more costs than it does today because line attribute routing would not eliminate CBT's need for a selective router (Tr. I at 200-01, Tr. II at 28). Intrado's suggestion would only add the cost of line attribute routing (Tr. II at 80). CBT contends that its solution is more cost effective because it only requires CBT to redirect trunks from the PSAPs it formerly served to Intrado's selective router (Tr. I at 205-06).

CBT avers that the Local Competition Order (at ¶¶199, 200, 209, 225, 552) requires the requesting carrier to be responsible for the cost of an expensive form of interconnection that it requests. In accordance with this principle, if the Commission were to require line attribute routing and direct trunking, Intrado would be responsible for CBT's costs because Intrado is the cost causer (CBT Initial Br. 21). CBT points out that 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. CBT argues that 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, CBT argues, then its demands do not have to be honored (CBT Reply Br. 12).

ISSUE 3 ARBITRATION AWARD

Although the Commission finds that direct end office trunking used in conjunction with class marking/line attribute routing is technically feasible, the Commission notes that the requesting carrier is generally entitled to route its end users' 911 calls to the point of interconnection and engineer its network on its side of the point of interconnection. Further, consistent with the FCC's findings in *In the Matter of the Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Systems, Request of King County*, 17 FCC Rcd 14789, ¶1 (2002), the Commission finds that the point of

interconnection to the wireline E-911 network is the selective router of the E-911 network provider. Each party bears the cost of getting to the point of interconnection. In both Case No. 07-1216-TP-ARB and in the current proceeding, the Commission observes that CBT is the requesting carrier when Intrado is the 911/E-911 service provider to the PSAP. In that situation, CBT will seek interconnection to send its customers' 911 calls to Intrado-served PSAPs. Therefore, the FCC requirements for interconnection, which originated in Section 251 (c) of the Act, and are also found in the paragraphs of the FCC's Local Competition Order, cited by Intrado, do not apply here.

Finally, considering the conflicting evidence concerning the reliability and expense of implementing such an arrangement, the Commission declines to order ILECs to use direct end office trunking to route their end users' 911 calls to Intrado's selective router when Intrado is the E-911 service provider. There is no FCC requirement that a requesting local exchange carrier use direct end office trunking to the selective router of the E-911 network provider. Moreover, given the lack of new evidence in this record, the Commission shall adhere to the precedent established in Case No. 07-1216-TP-ARB. Therefore, CBT is not required to utilize direct end office trunking, in conjunction with class marking/line attribute routing, to deliver its end users' 911 calls to Intrado where Intrado is the E-911 service provider to the PSAP. The Commission, therefore, recommends the adoption of CBT's proposed contract language in the Interconnection Agreement.

Issue 4 Is Intrado required to accept third-party originated 911 service or E-911 service traffic from CBT over trunk groups installed exclusively for the mutual exchange of Intrado and CBT traffic?

Intrado does not believe the parties' interconnection agreement should address the exchange of third-party 911 traffic and has proposed language that would prohibit either party from passing 911 transit traffic. Intrado explains that transit traffic is traffic that originates with one carrier, transits CBT's network, and terminates with another carrier. Neither the calling party nor the called party is CBT's customer (Hicks Testimony at 32). Intrado argues that allowing 911 service traffic to be exchanged via a transit service arrangement affects quality of service, network reliability, and network efficiency (Hicks Testimony at 30). Intrado argues that it is common for different call types, such as wireless, to be routed over separate PSAP trunks to ensure the incident-driving nature of wireless does not saturate all PSAP call takers at once over a common trunk group (Hicks Testimony at 31). Intrado contends that even though CBT claims that all traffic coming to Intrado will have identifying information (Fite Testimony at 12) that does not provide Ohio PSAPs with the ability to discern 911 calls by type, which removes or severely limits their call management control options (Hicks Testimony at 31, Tr. I at 116).

Intrado avers that direct trunking is the best method of delivering 911 service traffic to the designated 911 service provider (Hicks Testimony at 18, Fite Testimony at 5) and points out that CBT requires CLECs to deliver their 911 service traffic to CBT's selective router over direct, dedicated trunking [Intrado Petition for Arbitration Attachment 4 at Section 3.8.2(a)]. Intrado avers that subjecting Intrado to trunking arrangements different from those CBT utilizes for itself and other carriers would violate CBT's requirement to provide interconnection that is equal in quality under Section 251(c)(2)(C) (Tr. I at 145). Intrado contends that it is not asking CBT to block third-party originated 911 calls. Instead, Intrado seeks to ensure that any traffic it will receive from a third party via its interconnection relationship with CBT is provisioned properly using a separate trunk group. In addition, Intrado wants to make sure that such traffic is subject to a separate agreement between Intrado and the third-party provider (Tr. I at 114). Such arrangements, Intrado avers, are required by the Commission's rules (Rule 4901:1-7-13(F), O.A.C.) and CBT's own template agreement language [Intrado Petition for Arbitration at Attachment 1 Section 8.3(a)]. Intrado argues that CBT is under no obligation, pursuant to Rule 4901:1-7-13, O.A.C., to carry transit traffic if the originating and terminating carriers do not have an arrangement in place.

Intrado avers that third-party carriers will have a myriad of options to interconnect with Intrado and may choose to connect directly with Intrado or indirectly connect via CBT's transit service. In either case, Intrado contends that Intrado and the third-party carrier will be required to negotiate appropriate interconnection arrangements to ensure 911 service traffic is handled in the most efficient and reliable manner (Tr. I at 227). Intrado claims that it is not refusing to interconnect or enter into compensation arrangements with third parties as CBT contends. Intrado claims that, in fact, entering into direct arrangements with third parties is Intrado's preferred method.

CBT contends that the contract language proposed by Intrado states that it does not have to terminate any traffic not originated by CBT (Tr. II, at 39, 51). CBT did not accept Intrado's proposed language because Intrado, according to CBT, does not have the right to refuse to interconnect indirectly with other carriers and CBT does not have the right under the Commission's rules to refuse to handle transit traffic if CBT and the end carrier agree on compensation for those calls. CBT argues it cannot put itself in the position of having to decide whether to block 911 calls that are delivered to it by other carriers (Tr. II, p 49). If a third-party originated 911 call is destined to a PSAP serviced by Intrado, CBT claims it would direct the call to Intrado. CBT avers that Intrado's proposed language would prohibit that action by CBT, so it is unacceptable to CBT and, for obvious safety reasons, ought to be unacceptable to the Commission (CBT Initial Br. 23).

CBT points out that it currently provides E-911 service to all of the PSAPs in its service area, so all other carriers serving that area, be they wireless, CLECs, or interconnected VoIP, deliver all their 911 calls to CBT for completion. Therefore, CBT

contends, if Intrado enters the market as the 911 provider for one PSAP, other carriers will have to figure out how to get their calls to Intrado for completion. CBT further points out that Intrado does not presently have interconnection agreements with any carrier in CBT's service territory (Tr. I at 107). CBT contends that although Intrado wishes to require all other carriers serving that area to interconnect directly with Intrado, it is largely up to that other carrier whether it wants to interconnect directly or indirectly as permitted by the Act and the Commission's rules (CBT Initial Br. 24).

CBT contends that Intrado cannot legally refuse to interconnect with third-party carriers through CBT. CBT argues that under Section 251 of the Act, only an ILEC has an obligation to interconnect directly with a CLEC pursuant to 47 U.S.C. §251(c)(2). CBT avers that CLECs may interconnect with one another either directly or indirectly pursuant to 47 U.S.C. §251(a)(1) and the Local Competition Order, ¶997. While CBT realizes Intrado is not a CLEC, it contends that it certainly cannot have any greater right to require direct interconnection under Section 251 than a CLEC would have (CBT Initial Br. 24).

CBT argues that Intrado cannot refuse to negotiate a compensation arrangement with another telephone company, even if that company wants to interconnect indirectly with Intrado pursuant to the Commission rules (Rules 4901:1-7-02(B) and 4901:1-7-13(F), O.A.C. CBT also contends that under the Commission's rules, so long as a compensation arrangement exists between the carriers, an ILEC may not refuse to act as the transit carrier consistent with the Commission's rule (Rule 4901:1-7-13(C), O.A.C.).

ISSUE 4 ARBITRATION AWARD

To decide this issue, we shall rely upon Rule 4901:1-7-13(C), O.A.C., which reads as follows:

An intermediate telephone company may not refuse to carry transit traffic if:

- (1) It is appropriately compensated for the use of its network facilities necessary to carry transit traffic.
- (2) The originating and terminating telephone companies have a compensation agreement in place with the intermediate telephone company that sets the rates, terms and conditions for the compensation of such transit traffic.

The Commission agrees with CBT that the Commission's rules clearly require CBT to carry transit traffic if certain requirements are met. The Commission also notes that third-party carriers originating traffic destined to an Intrado PSAP customer are also obligated to establish a transport and termination agreement between the carrier and Intrado. In the Award for Issue 3, the Commission concluded that CBT, as the originating carrier, is

responsible for getting its end users' 911 calls to the POI on Intrado's network. Intrado's proposed language would appear to be contrary to this finding because it would prevent CLECs from using CBT to transit their end users' 911 calls to Intrado. While Intrado argues it does not believe the parties' interconnection agreement should address the exchange of third-party 911 traffic, it has done precisely that by inserting its proposed language banning it. As the Commission has found that CBT is required to carry transit third-party 911 traffic and Intrado is obligated to terminate that traffic given certain criteria are met, the Commission finds that Intrado's proposed language should not be included in the interconnection agreement. As noted above, third-party carriers originating traffic destined to an Intrado PSAP customer are also obligated to establish a transport and termination agreement with Intrado, whether the network connection is direct to Intrado or indirect via CBT (or some other carrier). Furthermore, there is nothing preventing a third-party carrier from seeking direct interconnection with Intrado pursuant to a mutually acceptable arrangement.

Issue 5 Should the parties adhere to National Emergency Number Association (NENA) and National Reliability and Interoperability Council (NRIC) recommended standards for trunking?

Intrado is proposing language stating that both parties should comply with NENA and NRIC recommendations for trunking in their interconnected networks. Intrado claims that it actively participated in industry bodies to ensure that it remains at the forefront of 911 solutions in the marketplace and that its Intelligent Emergency Network has been designed to capture and comply with NENA guidelines for next generation IP-based solutions (Hicks Testimony at 94). While Intrado acknowledges that NENA is not a standards setting body, it claims that NENA does provide valuable guidance to standard setting bodies, such as Association of Public Safety Communication Officials (APCO) and Association for Telecommunications Industry Solutions (ATIS) (*Id.*).

Intrado points out that CBT claims that its network is compliant with industry recommendations (Intrado Br. at 27, citing Tr. II at 78). Both parties, Intrado claims, should be required to engineer their networks consistent with the recommendations and guidelines established by the 911 industry (Tr. I at 267).

CBT avers that NENA and NRIC guidelines and recommendations are not mandatory and each carrier should retain control over the engineering details of its own network (Fite Testimony at 11). CBT points out that even Intrado acknowledges that NENA's own documents indicate that compliance is voluntary and that its recommendations are subject to cost benefit analysis (Tr. I at 213-214). CBT further argues that NENA is not a standards setting organization and does not recommend single solutions to issues. Instead, it often recognizes a variety of possible actions, each having their own pluses and minuses (Tr. I at 39, 48). CBT claims that Intrado's proposed

language is vague and could require CBT to comply with various NENA and NRIC guidelines and standards other than those applicable to the specific issue that is Intrado's true concern. If trunking arrangements are Intrado's true concern, then CBT contends that Intrado needs to justify the specific trunking arrangement that it desires (CBT Initial Br. 26). CBT further avers that its proposed means of handling 911 traffic is consistent with NENA publications on the interconnection of 911 networks (NENA Technical Reference NENA 03-003, CBT Exhibit 5).

CBT argues that given the almost limitless situations that individual companies may face in addressing particular engineering problems and the particular costs and benefits of a given situation, it would be meaningless to require the adoption of NENA standards. CBT points out that NENA does not recommend single solutions but rather a variety of possible actions. CBT avers that Intrado's proposed language would place CBT in the position where Intrado can second guess any engineering solution CBT implements within its own network. CBT concludes that the Commission should, therefore, adopt CBT's position on Issue 5 (CBT Initial Br. 25-26).

ISSUE 5 ARBITRATION AWARD

Given that NENA and NRIC guidelines and recommendations are not FCC requirements, the lack of specificity in Intrado's proposed language in this agreement, NENA's own recognition of the need for cost-benefit analyses, and the Commission's previous determination that CBT is responsible for the cost of delivering its end users' 911 calls to Intrado's selective router where Intrado is the 911 service provider to the PSAP, the Commission finds that a specific requirement to adhere to NENA and NRIC guidelines should not be incorporated into the interconnection agreement at this time.

Issue 6 What should each party charge the other party for facilities, features and functions necessary for the mutual exchange of 911 Service and E-911 Service Traffic?

Issue six concerns the pricing schedule in Section 3.8.7.1 of the parties' interconnection agreement. Intrado states that it, like CBT, seeks to impose reasonable port charges on CBT for connections to Intrado's network. Intrado further states that CBT should not be allowed to recover its costs while denying Intrado the opportunity to do the same (Joint Issues Matrix Page 8). Intrado states that it is entitled to charge for trunk ports and other incumbent companies do the same (Reply Brief at 20). Intrado states that CBT charges monthly per-line fees for 911 and E-911 services and states that Intrado seeks to impose reasonable port termination charges for CBT's connection to Intrado's network (Petition at 31-32, Hicks Testimony at 36). Intrado also states that CBT's proposed contract language at Section 3.8.2 indicates that it charges for trunking to its selective router, and

notes that it is possible that this trunking charge includes port charges (Hicks Testimony at 36-37).

Intrado states that its proposed charges are appropriate and consistent with industry practice and cites interconnection agreements filed by Embarq and AT&T to support this statement (Intrado Reply Br. 21). Intrado additionally points out that the FCC has determined that "interconnection" refers to the physical linking of two networks to provide for the exchange of traffic and is distinguished from transport and termination of said traffic, a finding that was upheld on appeal (Intrado Initial Br. 22). Finally, Intrado states that CBT is incorrect in stating that trunk port charges are appropriately included in reciprocal compensation charges, noting that the FCC has determined that the interconnection of networks is distinct from transport and termination of calls and that this Commission has previously determined that "the costs will only include terminating usage" (Intrado Reply Br. 21).

CBT points out that it does not charge for interconnection trunk ports (CBT Initial Br. 27, Joint Issues Matrix at 8, CBT Reply Br. 18) and opines that Intrado does not have the right to charge for interconnection trunk ports (Joint Issues Matrix at 8, CBT Reply Br. 18). CBT points out that it does not require any CLEC to pay for interconnection trunk ports, nor does any CLEC require CBT to pay for such ports (CBT Initial Br. 28, Tr. II at 54-55, CBT Reply Br. 18). CBT also opines that Intrado seems to misunderstand CBT's pricing schedule as referenced in section 3.8.2 of the contract. CBT notes that the monthly 911/E-911 charge appearing in the pricing schedule is the per-line end user 911 charge. Other carriers are required to collect this charge from their end-use customers and remit it to CBT, where CBT is the carrier providing service to the relevant PSAP (CBT Response to Petition at Page 20). Additionally, CBT notes that Intrado's witness was unable to indicate how CBT recovers its costs (CBT Initial Br. 27, Tr. I at 236-238).

CBT additionally opines that the port termination charges that Intrado seeks to impose on CBT are not allowed under Section 251 of the Act. CBT states that, under the FCC's interconnection rules, a CLEC is to charge the ILEC the same rates for interconnection that the ILEC charges, unless it has a cost study supporting a higher rate (Petticord Testimony at 24, CBT Initial Br. 28, referring to Rule 4901:1-7-12(D)(2)(b) O.A.C.). Additionally, CBT states that the cost of interconnection trunk ports is to be covered by CBT's reciprocal compensation rates (CBT Initial Br. 28, Tr. II at 13-14, CBT Reply Br. 19). CBT also indicates that, since the reciprocal compensation for 911 traffic in this interconnection agreement is a "bill and keep" arrangement, each carrier has implicitly agreed to absorb the cost of trunk ports on its network that are required for interconnection (CBT Response to Petition at Page 21, Petticord Testimony at 25, CBT Initial Br. 28, referring to Section 4.7.4 of the interconnection agreement). CBT notes that in its TELRIC proceeding it included the cost of trunk ports as one of the cost elements to be recovered in the per minute rate. The cost of trunk ports is not being charged because of

the bill and keep arrangement (Petticord Testimony at 25). Further, CBT indicates that, under its proposed language, it is not charging Intrado separately for trunk ports (Petticord Testimony at 25, CBT Reply Br. 19). Finally, CBT states that, if the Commission finds that Intrado is entitled to compensation for interconnection trunk ports, then it should find that CBT is similarly eligible to impose such charges (CBT Initial Br. 28, CBT Reply Br. 19).

ISSUE 6 ARBITRATION AWARD

CBT believes that it is not proper for Intrado to charge it for interconnection trunk ports, primarily because CBT believes the Commission approved CBT's TELRIC transport and termination rates as including the cost of interconnection trunk ports. Since the carriers have agreed not to employ reciprocal compensation for the transport and termination for 911 calls, CBT argues that a separate interconnection port charge, as proposed by Intrado, should not be allowed. The Commission, however, agrees with Intrado that reciprocal compensation for transport and termination of traffic is distinguishable from the compensation for physical interconnection. The Commission's Rule 4901:1-7-12, O.A.C., discusses the compensation for the transport and termination of traffic. The rule defines transport as "...the transmission, and any necessary tandem switching of telecommunications traffic..." and termination as "...the switching of the telecommunications traffic at the terminating telephone company's end office switch...and delivery of such traffic to the called party's premises." Inherent in these definitions is that there be traffic to transport and terminate in order for there to be compensation. Interconnection, on the other hand, is defined in Rule 4901:1-7-06, O.A.C., as the facilities and equipment physically linking two networks for the mutual exchange of traffic. Interconnection, and compensation for interconnection, may be required whether there is traffic or not. As proposed by Intrado, the trunk port would be the location of the point of interconnection on Intrado's network. As such, Intrado's trunk port is defined as an interconnection facility rather than a transport and termination facility. Consequently, the requirement that Intrado's rates be symmetrical to CBT's (i.e., the rates must be equal unless the non-ILEC provides a cost study) is not applicable here.

The question remains whether the rates for trunk-side ports proposed by Intrado are reasonable. Unfortunately, there is little in the record from either party that makes that answer apparent. CBT's assertion that the costs of interconnection trunk ports are included in its reciprocal compensation rates does not appear to be relevant to the question as to what Intrado can charge for its interconnection facility. CBT has otherwise not proposed a rate for trunk side interconnection ports. The Commission at this time only has in the record Intrado's assertion that its rates for trunk side interconnection ports are reasonable, though it does note that the proposed rates are not beyond the range of other companies. Based upon this somewhat limited record, the Commission concludes that Intrado's proposed rates are not unreasonable. The rates should be included in the

interconnection agreement and applicable only on Intrado's network where CBT delivers its traffic to Intrado consistent with the Commission's award for Issue 2.

Additionally, the Commission has previously determined that interconnection for the delivery of an ILEC customer's 911 call to a PSAP served by Intrado falls under the general requirement to interconnect imposed on carriers by Section 251(a), rather than the ILEC-specific requirements of Section 251(c).⁶ Under Section 251(a) of the Act, the terms, conditions and pricing of trunk side ports (the only services whose prices are in dispute) are open to negotiation between the parties. However, because CBT has not proposed rates that would be applicable to its interconnection trunk side ports under Section 251(a), the only rates appearing in the record are those of Intrado. Because there is nothing in the record to indicate that these rates are unreasonable and CBT has indicated a desire for reciprocity with regard to charging for trunk side ports, the Commission finds that Intrado's rates for trunk side ports are appropriate for both parties to the extent that the interconnection trunk ports are purchased under Section 251(a). Therefore, the parties are instructed to charge each other the same rate for each trunk side port purchased under Section 251(a), based on the rate proposed by Intrado.

It should be noted that if Intrado obtains a certification that would allow it to provide dial-tone services to end-use customers, interconnection, call transport, and termination, including access to CBT's 911 Selective Router where needed to terminate an Intrado end-use customer's call to the appropriate PSAP, would be under the auspices of Section 251(c). Whatever services or UNEs Intrado purchases from CBT in order to provide dial-tone services to Intrado's end-use customers would be under the auspices of Section 251(c) and shall be priced consistent with the rules in force implementing Section 251(c) at that time.

It is, therefore,

ORDERED, That Intrado and CBT incorporate the directives set forth in this Arbitration Award within their final interconnection agreement. It is, further,

ORDERED, That, within 30 days of this Arbitration Award, Intrado and CBT docket their entire interconnection agreement for review by the Commission, in accordance with Rule 4901:1-7-09(G)(5), O.A.C. If the parties are unable to agree upon an entire interconnection agreement within this time frame, each party shall file for Commission

⁶ See, *In the Matter of the Petition of Intrado Communications, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with United Telephone Company of Ohio dba Embarq and United Telephone Company of Indiana dba Embarq, Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Case No. 07-1216-TP-ARB (Arbitration Award issued September 24, 2008).

review its version of the language that should be used in a Commission-approved interconnection agreement. It is, further,

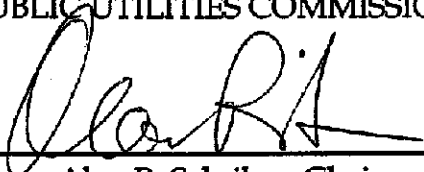
ORDERED, That nothing in this Arbitration Award shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That this Arbitration Award does not constitute state action for the purpose of antitrust laws. It is not our intent to insulate any party to a contract from the provisions of any state or federal law that prohibits restraint of trade. It is, further,

ORDERED, That this docket shall remain open until further order of the Commission. It is, further,

ORDERED, That a copy of this Arbitration Award be served upon Intrado, CBT, their counsel, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman




Paul A. Centolella

Ronda Hartman Fergus



Valerie A. Lemmie

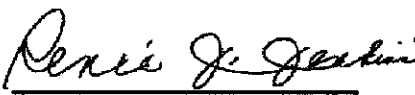


Cheryl L. Roberto

LDJ/CK/LS/MT/vrm

Entered in the Journal

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Renee J. Jenkins
Secretary