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February 7, 2008

Via Hand Delivery

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 070699-TP
Petition of Intrado Communications Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Section 364.162, Florida Statutes to Establish an Interconnection Agreement with Embarq Florida, Inc.

Dear Ms. Cole:

In connection with the above-referenced proceeding, please take administrative notice of the enclosed Finding and Order of the Public Utilities Commission of Ohio *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 (issued February 5, 2008). The Finding and Order concludes that the services provided by Intrado Communications Inc. ("Intrado Comm") are telephone exchange services and that carriers like Intrado Comm are entitled to all rights and obligations of a telecommunications carrier pursuant to Sections 251 and 252 of the Communications Act of 1934, as amended. These conclusions specifically address similar issues raised in the above-referenced proceeding and should be considered supplemental authority for Intrado Comm's petition for arbitration and Intrado Comm's opposition to the motion to dismiss filed by Embarq Florida, Inc.

Respectfully submitted,

Chérie R. Kiser
Counsel for Intrado Communications Inc.

CMP ____
COM ____
CTR ____
ECR ____
GCL 1
OPC ____
RCA ____
SCR ____
SGA ____
SEC ____
OTH ____

Enclosure
cc: Lee Eng Tan
Laura King
Charlene Poblete
Susan Masterson, Counsel for Embarq
Rebecca Ballesteros
Floyd Self

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

FINDING AND ORDER

The Commission finds:

(1) On November 19, 2007, as amended on December 7, 2007, and January 28, 2008, Intrado Communications, Inc. (Intrado) filed an application seeking certification in the state of Ohio as a competitive local exchange carrier (CLEC) for the purpose of provisioning telecommunications services that facilitate, enhance, and advance the provision of emergency services for end users of wireline and wireless carriers and voice over Internet protocol (VoIP) providers. Intrado submits that it will offer its telecommunications services throughout the state of Ohio to a federal, state, or municipal or other local government unit legally authorized to subscribe to the service and which has public safety responsibility by law to respond to telephone calls from the public for emergency services, including police and fire. The applicant avers that its offerings in Ohio will provide public safety answering points (PSAPs) with competitive alternative options to their current 9-1-1 incumbent-based legacy systems that do not exist today. In particular, Intrado states that its next-generation solution will provide PSAPs with the capabilities to process, route, and deliver wireline, wireless, and VoIP calls allowing for more relevant information to be sent to first responders.

Intrado explains that its services permit calls originated by personal communications devices that dial 9-1-1 or another emergency number to be received by a PSAP. The company describes how its services support interconnection to other telecommunications service providers for the purpose of receiving emergency calls originated in their networks. Specifically, these services include 9-1-1 call routing services which use a call management system to perform the selective routing of an emergency call to the appropriate PSAP or to hand the call off to a different 9-1-1 service provider for call completion to the appropriate PSAP. Inasmuch as its services allow for access and usage of 9-1-1

services through the transporting of 9-1-1 and emergency call traffic to its subscribers, Intrado opines that it is engaged in the provision of Tier 1 noncore service.

As part of its service provisioning, Intrado describes that it requires the use of numbering resources in the state of Ohio. In particular, these numbering resources pertain to the use of pseudo automatic number identification (pANI) resources for the purpose of instructing switches where to route wireless and VoIP 9-1-1 calls. Intrado avers that prior to seeking such numbering resources it should be certified as a CLEC for the purpose of providing Tier 1 noncore services.

(2) Pursuant to the attorney examiner's Entry of December 18, 2007, AT&T Ohio, Cincinnati Bell Telephone Company, LLC (Cincinnati Bell),[1] and the Ohio Telecom Association (OTA) were granted intervention in this proceeding.

(3) AT&T Ohio questions why Intrado should be allowed to provide a limited service absent the broader obligations of other telecommunications carriers in the state of Ohio. Specifically, AT&T Ohio avers that Intrado is seeking a CLEC certificate for the purpose of interconnection while not intending to offer basic local exchange service as required by the Commission's rules. AT&T Ohio submits that, pursuant to Section 4905.041, Revised Code, Intrado's application for certification should be denied in light of the fact that the company does not qualify as a local exchange carrier consistent with federal law (AT&T Ohio Motion for Intervention at 3).

Further, AT&T Ohio asserts that Intrado's application is contrary to the Commission's long-standing policy requiring that 9-1-1 services be priced "at cost." Specifically, AT&T Ohio highlights the fact that Intrado's tariff provides for a "return" on certain charges (AT&T Ohio Reply Memorandum, December 18, 2007, at 2, referencing Intrado's proposed Tariff No. 1, Section 6, Original Pages 1 and 2).

(4) Cincinnati Bell objects to Intrado seeking certification as a CLEC despite the fact that it will not be offering dial tone or any other aspect of local exchange service other than 9-1-1 services to

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1 On December 4, 2007, Cincinnati Bell also filed objections in opposition to Intrado's application and a request for a suspension.

PSAPs. Cincinnati Bell opines that Intrado is seeking certification as a CLEC so that it can avail itself of interconnection and access to unbundled network elements (UNEs), despite the fact that it has no plans to actually operate as a CLEC. Cincinnati Bell also believes that Intrado is seeking to change the routing of certain 9-1-1 traffic and the relationship between Cincinnati Bell and other carriers and PSAPs in Cincinnati Bell's service area (Cincinnati Bell Motion for Intervention at 3).

(5) Similar to AT&T Ohio and Cincinnati Bell, OTA believes that Intrado is seeking to obtain the rights and privileges of interconnection, access to UNEs, and collocation, despite the fact that the applicant is not entitled to them pursuant to Ohio law inasmuch as Intrado does not provide all of the elements of basic local exchange service (OTA Motion to Intervene at 4). OTA opines that if Intrado is successful in gaining CLEC certification, OTA's members will be adversely affected and unlawfully burdened by other similarly situated providers (*Id.* at 2).

(6) Intrado considers the motions of AT&T Ohio, Cincinnati Bell, and OTA to be an attempt to create a barrier to entry for itself and other competitive 9-1-1 service providers to compete in Ohio for the purpose of serving the needs of the public safety community (Intrado Memorandum Contra at 1).

Specifically, Intrado dismisses the objections raised in response to its certification application inasmuch as it considers the identified issues and concerns to be either without merit or irrelevant to the issue of Intrado's fiscal, technical, or managerial qualifications as they relate to certification (*Id.* at). Intrado considers the stated objections to be nothing more than an attempt by the ILECs to protect their own turf from the services that Intrado believes are supported by the public safety community (*Id.* at 3). Additionally, Intrado believes that such services are supported by Section 253 of the Telecommunications Act of 1996 (1996 Act).

To the extent that there are technical issues relative to the offering of its advanced 9-1-1 services, Intrado believes that these issues are more appropriate in the context of interconnection negotiations, and should not be addressed in this certification proceeding. Intrado asserts that it services constitute telephone exchange service as defined in the 1996 Act inasmuch as it provides the routing, transmission, and transport of traditional

and nontraditional emergency call traffic to the appropriate PSAP. Therefore, Intrado avers that it is a telephone company subject to the Commission's jurisdiction in accordance with Section 4905.03(A)(2), Revised Code. As a result of its service offerings, Intrado asserts that it provides significant value to the public safety community, as well as residents of the state.

(7) Upon a review of Intrado's application for certification, the Commission determines that, although Intrado is seeking to be designated as a CLEC, based on the company's described services it is more appropriate to establish a new designation known as an "competitive emergency services telecommunications carrier" and to designate the applicant as such, rather than as a CLEC.

The Commission determines that competitive emergency services telecommunications carriers are telecommunications carriers pursuant to 47 U.S.C. 153. In reaching this determination, the Commission notes that, pursuant to Section 153(44) of the 1996 Act, a telecommunications carrier is:

> [A]ny provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in Section 226). A telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in telecommunications services . . . .

Section 153(51) of the 1996 Act defines telecommunications service as:

> [T]he offering of telecommunications for a fee directly to the public or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Section 153(48) defines telecommunications as:

> [T]he transmission between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received.

Applying these definitions to Intrado's proposed service offering, it is clear that Intrado is engaged in the provisioning of tele-

communications due to its transmission of 9-1-1 end user information from the end user's location to the PSAP. This offering is a telecommunications service in light of the fact that it will be contracted for by one or more Ohio counties for a fee, the effect of which is the availability of enhanced 9-1-1 service directly to the public.

Additionally, the Commission determines that emergency service telecommunications carriers are telephone companies pursuant to Section 4905.03, Revised Code and Rule 4901:1-7-01(S), O.A.C., and public utilities pursuant to Section 4905.02(B), Revised Code, inasmuch as they are engaged in the transmission of a telephonic message in their capacity of maintaining the selective router and directing 9-1-1 traffic to the appropriate PSAP. Accordingly, competitive emergency services telecommunications carriers are entitled to all rights and obligations of a telecommunications carrier pursuant to Sections 251 and 252 of the 1996 Act.

In establishing the competitive emergency services telecommunications carrier designation, the Commission distinguishes between a CLEC that is engaged in the business of provisioning basic local exchange service to end user subscribers who have either affirmatively selected the carrier or have other alternative providers available, and a company such as Intrado, which intends to serve the needs of the public safety community as a "competitive 9-1-1 service provider" (Intrado Memorandum Contra, December 11, 2007, at 1), but with whom the end user has no relationship. In support of this distinction, the Commission notes that Intrado's services involve the routing, transmission, and transport of traditional and nontraditional emergency call traffic to the appropriate PSAP or to allow for the handoff to a different 9-1-1 service provider, such as an ILEC, for call completion to the appropriate PSAP (Application, Ex. 3). Therefore, while Intrado is a telecommunications carrier engaged in the provision of telephone exchange service pursuant to Section 251 of the 1996 Act, its telephone exchange activities are restricted in scope and, thus, do not extend to the level of a CLEC.

The Commission notes that as a telecommunications carrier, the applicant has requested interconnection with the following Ohio ILECs pursuant to Section 251 of the 1996 Act: AT&T Ohio,

CenturyTel of Ohio, Cincinnati Bell Telephone Company, United Telephone Company of Ohio dba Embarq, Verizon North, and Windstream (Application, Ex. 19). Therefore, ILECs are obligated to negotiate with Intrado in good faith specific to the terms of interconnection. Additionally, pursuant to its designation as an emergency services telecommunications carrier, Intrado is entitled to access of pANI resources. Intrado shall obtain and utilize such pANI resources in an efficient manner consistent with the FCC's number optimization rules in 47 C.F.R. §52. The Commission directs Intrado to make available to the Commission's staff, upon request, information concerning Intrado's application for and/or utilization of pANI resources.

The Commission highlights the importance of regulating competitive emergency services telecommunications carriers in light of the significant public interest surrounding the provisioning of 9-1-1 service. As discussed in Intrado's application, its next-generation technology will provide PSAPs with the enhanced capability to process, route, and deliver wireline, wireless, and VoIP calls, enabling more relevant information to be sent to emergency personnel (Application, Ex. 5, at 3). By certifying competitive competitive emergency services telecommunications carriers, the Commission recognizes that it is providing PSAPs with competitive alternatives (e.g., Intrado) to the ILEC's traditional processing of 9-1-1 traffic. PSAPs will now have the opportunity to contract with entities that provide the most advanced 9-1-1 service available. This competitive environment will encourage the further development of 9-1-1 technology.

(8) In reaching the determination that Intrado should be certified as a competitive emergency services telecommunications carrier, the Commission has engaged in a comprehensive analysis of the company's compliance of the requirements of Rule 4901:1-6-10, O.A.C., including a demonstration of its technical, financial, and managerial capabilities.

A review of the record reflects that Intrado is certified to provide telecommunications services in more than 35 states (Application, Ex. 3, at 3). The company represents that along with its affiliate Intrado Inc., it owns and operates the largest 9-1-1 network in the world and that Intrado Inc. has operated 9-1-1 databases on behalf of three of the major ILECs for a number of years, and a

nationwide near real-time messaging network in support of wireless E9-1-1 for over 49 wireless carriers (*Id.*). Intrado describes its support for the industry's migration to Next Generation 9-1-1 services as evidenced by its active support and alignment with the United States Department of Transportation's Next Generation 9-1-1 Initiative (*Id.*, Ex. 5, at 3). According to the company, its expertise and commitment to E9-1-1 network security is reflected by its active participation in the Network Reliability and Interoperability Council (*Id.*, Ex. 3, at 3). In fact, Intrado submits that it is a secured and private IP-managed network. Intrado's systems that are accessible through the Internet, including the subscriber record management data exchange portal, database management interface toll, and metrics tool, are protected by a secure access process that requires authentication through a unique user name, unique user password, and a code randomly generated at time of access via a secure ID token. Further, firewalls and network infrastructure are always configured with network intrusion detection in place to warn dedicated network security personnel of abnormal traffic patterns as well as providing the needed forensics to follow up on any attempted attack. The record also demonstrates that Intrado's officers and directors have vast technical experience in the 9-1-1 industry (*Id.*, Ex. 3). Additionally, the financial information submitted for Intrado's parent corporation reflects that Intrado has sufficient funding sources from its ultimate parent corporation to support its operations in the state of Ohio (*Id.*, Ex. 10).

(9) Intrado acknowledges and agrees to abide by the requirements set forth in Rule 4901:1-5-13, O.A.C., which pertain to the emergency and outage operations impacting 9-1-1 service. Consistent with the intent of this rule, the Commission is particularly concerned that 9-1-1 service not be interrupted due to a business determination on behalf of the applicant or a county that Intrado no longer serve in the capacity of an competitive emergency services telecommunications carrier. Therefore, Intrado must obtain Commission approval pursuant to an order prior to discontinuing or disconnecting service in a specific county or throughout the entire state of Ohio. In other words, all such requests should be filed as nonautomatic approval abandonment cases. Additionally, the Commission directs that Intrado and the ILEC providing wireline emergency 9-1-1 service shall

operate in a cooperative manner to ensure that emergency 9-1-1 calls continue unimpeded between end users and PSAPs.

(10) The Commission recognizes that, pursuant to Rule 4901:1-6-01(B)(3), O.A.C., basic local exchange service includes access to and usage of 9-1-1 services, where such services are available. Due to the fact that the provision of emergency services is a component of basic local service, it shall be considered as a Tier 1 core service consistent with Rule 4901:1-6-04, O.A.C. Therefore, with the exception of those case types specifically addressed in Findings (11) and (16), all applications related to the provision of emergency services shall be filed and processed in accordance with the automatic approval time frames provided for in the Commission's rules applicable to the competitive provider provision of Tier 1 core services.

Certification of competitive emergency services telecommunications carriers should occur on a countywide basis in order to ensure that all 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. In addition, the 9-1-1 systems in Ohio are planned, structured, and established on a countywide-basis. Therefore, competitive emergency services telecommunications carriers should not serve individual PSAPs but, instead, the entire countywide 9-1-1 system.

(11) Pursuant to its application, Intrado is certified, at this time, as an competitive emergency services telecommunications carrier in all 88 counties in the state of Ohio. The company's tariff should be routinely updated to reflect the counties in which it is actually provisioning service.

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, VoIP etc.). The 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 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 countys, 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.

(12) In order to promote the notion of seamless 9-1-1 service, each designated competitive emergency services telecommunications carrier shall interconnect with each adjacent countywide 9-1-1 system to ensure transferability across county lines. In addition, each competitive emergency services telecommunications carrier is required to ensure call/data transferability between Internet protocol (IP) enabled PSAPs and non-IP PSAPs within the countywide 9-1-1 systems it serves, and to other adjacent countywide 9-1-1 systems, including those utilizing non-IP networks which are served by another 9-1-1 system service providers.

(13) Intrado also seeks to establish rules, and regulations governing its competitive emergency services telecommunications carrier offerings. After inspecting the applicant's proposed tariff, as amended on December 7, 2007, and January 28, 2008, the Commission finds the tariff to be in compliance with the Commission's rules and orders relevant to the service offerings proposed by the applicant. Accordingly, the Commission concludes that the tariff should be approved. While approving Intrado's tariff, the Commission notes that the tariff reflects that the services will be offered on an individual contract basis. The tariff itself is limited standard language regarding the rules and regulations pertaining to the service offering.

While AT&T Ohio is correct in its contention that the Commission previously expressed the intent that the price of 9-1-1 and related services shall be limited to the additional cost to provide the service, this limitation was in reference to the offering of traditional 9-1-1 services offered by the ILEC. Enhanced 9-1-1 services, such as those proposed by Intrado, were not contemplated at the time of the Commission's prior 9-1-1 pricing decision. See, *In the Matter of the Adoption of Guidelines Governing the Disclosure or Use of the Emergency 9-1-1 Database in Accordance with House Bill No. 244*, Case No. 94-1965-TP-ORD, Finding and Order, June 6, 1996, at 13.

(14) All contracts between Intrado and individual Ohio counties for the provision of enhanced emergency services should, within 30-days of their execution, be submitted to the 9-1-1 Coordinator for the state of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.

(15) To the extent that Intrado ultimately seeks to engage in the provision of additional services that results in the company acting as a CLEC, the applicant should file for approval to amend its certificate to provide such services. Upon the filing of the application, the Commission will assess the company's designated status.

(16) Finally, the Commission has previously determined that the provisioning of outbound emergency notification messaging is not competitive due to the fact that the 9-1-1 database is compiled and held in "public trust and not able to be released to any outside third party. As a result, all tariffs filed by Intrado for the provisioning of outbound emergency notification messaging should be held at cost and will be considered on a nonautomatic basis. See Case No. 06-915-TP-ORD, *In the Matter of the Implementation of Rules Concerning Wireless Enhanced 9-1-1 Pursuant to H.B. 361*, Entry on Rehearing, January 17, 2007, at 8. Intrado is directed to amend its tariff to include outbound emergency notification messaging once the service is requested from any county it serves.

It is, therefore,

ORDERED, That Intrado is granted certification as an competitive emergency services telecommunications carrier in accordance with the above findings and shall be issued Certificate No. 90-8000. It is, further,

ORDERED, That Intrado's tariff filed on November 19, 2007, as amended on December 7, 2007, and January 28, 2008, is hereby approved. The earliest effective date of the approved tariff shall be the date upon which Intrado has filed with the Commission three copies of the approved tariff in the TRF docket No. 90-8000-TP-TRF. The tariff shall be effective for services rendered on or after such effective date. It is, further,

ORDERED, That Intrado must update its tariff to reflect its counties of operation consistent with Finding (11). It is, further,

ORDERED, That Intrado amend its tariff to incorporate outbound emergency notification messaging consistent with Finding (16). It is, further,

ORDERED, That all contracts between Intrado and an Ohio county should be informally submitted to the Commission staff in accordance with Finding (14). It is, further,

ORDERED, That Intrado must obtain Commission approval pursuant to an Order prior to discontinuing or disconnecting service. It is, further,

ORDERED, That Intrado cannot commence operations in a particular county until such time that it has filed the applicable countywide 9-1-1 plan adopting Intrado as its 9-1-1 system service provider, filed its amended tariff updating the counties it is serving, and submitted the applicable contract to the Commission staff. Additionally, Intrado must have approved interconnection agreement(s) for the counties it seeks to serve. It is, further,

ORDERED, That the ILEC shall continue to act as the 9-1-1 system service provider for those types of telecommunications services not designated to Intrado by the county. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Paul A. Centolella

Ronda Hartman Fergus

Valerie A. Lemmie

Donald L. Mason

JSA;geb

Entered in the Journal

FEB 05 2008

Reneé J. Jenkins
Secretary

DRAFT – This document was created only for the purpose stated within. It is for staff discussion only and does not reflect the view of the Commission

Certification Reporting Form
30-Day Auto

Company Name: Intrado Communications Inc.
Company Contact: Eric Sorenson Contact Phone Number: 720-494-5800

Case Number: 07-1199-TP-ACE

Date Filed: 11/19/07 Auto Date: 12/19/07

Last day to Suspend:
Suspension issued as a Non-auto (F&O required)

TRF No.: 90-8000
File Date of TRF Tariffs:

Company Types
☐CTS
☐CLEC
☐AOS
☒Other (Explain) Emergency Service Telecommunications Carrier (E9-1-1 Services Provider)

Service Types
☒Local
☐CTS
☐Other types of service – Specify:

☐Waiver Requested (Toll Auto Clock) Describe Waiver
☐Approve ☐Disapprove

☒Objection Filed

Telecom Staff Submitted By: Marianne Townsend Submitted Date:
Telecom Reviewed By: Marianne Townsend/Karen Kalmar Reviewed Date:
Legal Submitted By: Jay Agranoff Legal Submitted Date:
RSAD Staff: Ken Rogiers
9-1-1 Coordinator Technical Review By: Shawn Smith
Financial Review: Mick Twiss

ROI Below:

REPORT OF INVESTIGATION

TO: The Commission

FROM: Marianne Townsend

DATE: January 30, 2008

SUBJECT: Intrado Communications, Inc.
Case No. 07-1199-TP-ACE

SUMMARY:

Staff is recommending that Intrado Communications, Inc. ("Applicant") be granted a new designation certification as an "Emergency Service Telecommunications Carrier" (ESTC) in the state of Ohio.

PROCESS:

On November 19, 2007, and amended on December 07, 2007 and January 28, 2008, the Applicant filed an application with the Commission seeking to be certified as a Competitive Local Exchange Carrier (CLEC) in the state of Ohio, pursuant to the Commission's Case No. 06-1345-TP-ORD, *In the Matter of the Review of Chapter 4901:1-6 O.A.C*, also known as the Retail Rules, as codified in 4901:1-6-10 of the Ohio Administrative Code (O.A.C.). Absent full or partial suspension, applicants seeking certification as a telephone company will be approved in accordance with the thirty-day automatic approval process described in Rule 4901:1-6-08 of the O.A.C. On December 4, 2007, Cincinnati Bell Telephone Company (CBT), AT&T Ohio (AT&T) and the Ohio Telecom Association (OTA) filed Motions to Intervene, written statements as to why the application should not be granted and request for suspension in this case. On December 18, 2007, by Attorney Examiner Entry, the Motions to Intervene were granted and the application was suspended in order to give the Commission Staff additional time to conclude its investigation.

DETAILED REPORT:

In this filing, the Applicant is seeking authority as a CLEC and is proposing to provide telecommunication services that facilitate, enhance and advance the provision of emergency services for end users of wireline, wireless, and Voice over Internet Protocol (VoIP) providers. The Applicant further proposes to offer its telecommunications services throughout the state of Ohio to a federal, state, or municipal or other local government unit legally authorized to subscribe to the service and which has public safety responsibility by law to respond to telephone calls from the public for emergency services, including police, and fire. The Applicant is not proposing to offer traditional basic local exchange services (BLES) but is proposing to offer a component of BLES (i.e. E9-1-1).

The Applicant states that its offerings in Ohio will provide public safety answering points (PSAPs) with competitive and enhanced options to its current 9-1-1 incumbent-based legacy systems that do not exist today. Furthermore, the Applicant states that its next-generation solution will provide PSAPs with the capabilities to process, route and deliver wireline, wireless, and VoIP calls allowing for more relevant information to be sent to first responders.

The Applicant has requested interconnection arrangements with AT&T, CenturyTel, CBT, and United Telephone, dba Embarq, Verizon North and Windstream.

ISSUES

1. Does the Applicant have the proper managerial, technical and financial ability to provide an emergency telecommunication service in Ohio?

2. Public Policy on Emergency Service Telecommunications Carrier" (ESTC)
   - Service Territory
   - Call delivery

3. Regulatory Framework
   - Tier 1 Core
   - Disconnect/Abandonment of Service
   - Outbound emergency notification messaging
   - pANI Resources and Number Optimization

RULES

- *4901:1-6-10 Ohio Administrative Code, Telephone Company Certification*

- *4901:1-6-01(B) (3) Definitions, "Basic local exchange service"...Access to and usage of 9-1-1 services...*

- *4901:1-6-04(1)(a)(i) Tier 1 core services...Basic local exchange service*

- *Case No. 06-915-TP-ORD, In the Matter of the Implementation of Rules Concerning Wireless Enhanced 9-1-1 Pursuant to H.B. 361, Entry on Rehearing, January 17, 2007*

- *4905.03(A) (2) Revised Code, Public Utility Company Definition*

  A) *Any person, firm, co-partnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is:*

(2) A telephone company, when engaged in the business of transmitting telephonic messages to, from, through, or in this state and as such is a common carrier;

- Sections 251 and 252 of the Telecommunication Act of 1996

ANALYSIS

1. **Does the Applicant have the proper managerial, technical and financial ability to provide an emergency telecommunication service in Ohio?**

Staff believes that, as demonstrated in the exhibits to the application and upon its own review and in part acquired from additional data requests, the Applicant has extensive managerial, technical and financial ability to provide telecommunications services; specifically, competitive enhanced 9-1-1 services in Ohio. The Applicant is currently an underlying 9-1-1 network and database provider to several large ILEC's in the state of Ohio. In other words, the applicant manages the ILEC's customer information in the automatic location information database ("ALI") and utilizing that information selectively routes the 9-1-1 call to the proper public safety answering point ("PSAP").

Financial

The Applicant is a Delaware corporation located in Longmont, Colorado and is wholly owned by West Corporation (West), a public consortium founded in 1986 and headquartered in Omaha, Nebraska. In April of 2006, West purchased the Applicant's immediate parent, Intrado, Inc., which held assets of approximately $539 million including goodwill. Staff questioned the Applicant's financials noting that there was a significant amount of "goodwill" in relation to its total asset base. The goodwill was booked as a result of the company acquiring several companies over the past two years at prices greater than the book value of the assets of those companies. While this is a common accounting practice Staff was concerned because the goodwill and assets acquired in these transactions were ultimately financed with additional debt.

Due to this recent increase in debt Staff carefully analyzed the company's most recent operating cash flows and interest expense. Staff believes the calculated Earnings Before Interest Taxes Depreciation and Amortization (EBITDA) interest coverage ratio of 1.64 is more than adequate to make interest payments and continue to invest in the operations of the company.

Based on this thorough review, Staff believes that the Applicant will be a financially viable telecommunications carrier in Ohio.

Managerial

Through its managerial review, Staff discovered that the Applicant has earned a well respected reputation in the industry through both its products and services, and active and high level involvement in each of the national 9-1-1 associations. Most recently, the Applicant developed a proposed set of 9-1-1 service standards, which it has circulated throughout the 9-1-1 industry. The Applicant believes that these standards will serve as a foundation for delivering reliable and redundant emergency telecommunication services.

The Applicant states and Staff has verified that the Applicant has received authority to provide the exact services it seeks to provide as a competitive local exchange and interexchange service provider in approximately 35 states.

Technical
The Applicant states that since the 1990s, it has provided the core of the nations' 9-1-1 ALI and selective routing infrastructure and that each year, its services and systems support over 200 million 9-1-1 calls, including calls from wireline, wireless, VoIP and other alternative communication technologies.

Staff independently reviewed maintenance and emergency planning documents. These plans were designed to address power interruptions to network elements, responses to service interruptions, pandemic flu events and other homeland security scenarios. Staff found these documents to be thorough and well prepared. In addition, Staff reviewed the network design and functionality of the Applicant's proposed service called "The Intelligent Emergency Network" and found it to be robust due to its enhanced IP framework which will allow for real-time data delivery and diverse routing over alternate voice and or data paths to reduce the potential for service failure.

In reviewing whether the Applicants' bonafide requests for interconnection to the ILEC, specifically CBT, they are seeking collocation facilities, specifically for DS1 connections over DSO level facilities to the ILEC tandems employing SS7 signaling; the applicant is also seeking UNE loops for the provision of local exchange service to PSAPs from the ILECs end offices; and the use of numbering resources pertaining to the use of pseudo automatic number identification (pANI) resources for the purpose of instructing switches where to route wireless and VoIP 9-1-1 calls. Staff questioned the applicant as to how they intended to use the DSO/DS1 circuits for PSTN or IP traffic and if they intended to resell the UNE loops. The applicant responded that while the DSO/DS1 connections could be used for either form of traffic, it currently intends to use them for traditional PSTN based connections between their 9-1-1 routing service and the CBT selective routing tandem. The applicant further stated that it did not intend to resell UNE loops.

Staff finds that the Applicant's rationale associated with the use of interconnection facilities supports its request to be a telecommunications carrier under Sections 251 and 252 of the Telecommunications Act of 1996 and entitled to all rights and obligations under such Act.

2. Public Policy on Emergency Service Telecommunications Carrier" (ESTC)

Upon further review of the applicant's proposed application seeking authority to be a CLEC; and in light of the significant public interest surrounding the provisioning of the applicant's described services, specifically of 9-1-1 service, Staff believes that the Commission should establish a new designation known as an "emergency service telecommunications carrier" and to designate the applicant as such, rather than as a CLEC. Within the scope of this ESTC designation, Staff recommends the following criteria:

Service Territory
The applicant is proposing that it be granted statewide authority, however, due to the fact that the 9-1-1 systems in Ohio are planned, structured, and established on a countywide basis, Staff finds that within the scope of this new ESTC designation, the certification should occur on a countywide basis in order to ensure that all PSAPs in a given county are served by the same emergency service telecommunications carrier for purposes of provisioning seamless 9-1-1

service. Therefore, ESTCs should not serve individual PSAPs but, instead, the entire countywide 9-1-1 system and it would be more appropriate to certify the applicant in all 88 counties.

Call Delivery
In order to promote seamless 9-1-1 services as the applicant proposes, Staff recommends that the ESTC be required to interconnect with each adjacent countywide 9-1-1 system to ensure transferability across county lines. In addition, each ESTC is required to ensure call/data transferability between Internet Protocol (IP) enabled PSAPs and non-IP PSAPs within the countywide 9-1-1 systems it serves, and to other adjacent countywide 9-1-1 systems, including those utilizing non-IP networks which are served by another 9-1-1 system service provider.

Also, Staff finds that the applicant should also be required to carry all calls throughout the county for such types of telecommunications services designated by the county.

3. Regulatory Framework

The Applicant proposes to offer its services and pricing on an individual contract basis. Staff recommends that all contracts provisioning for enhanced emergency services, between the applicant and any Ohio county should be submitted to the Ohio 9-1-1 coordinator within 30 days of their execution.

Tier 1 Core
Due to the fact that the provision of emergency services is an essential component of basic local service with public interest and safety ramifications, Staff points out that these services are considered Tier 1 Core and not Tier 1 non-core as proposed by the Applicant. Therefore, as an Emergency Service Telecommunications Carrier the Applicant will be governed by the Commission's Telecommunications Rules, as its service pertain to Tier 1 Core E9-1-1 services. Further, except where otherwise ordered and as noted below, subsequent filings and requests should follow the process and procedures depicted in the Commission's Retail Rules and where applicable the Commission's MTSS and Carrier Rules.

Specifically, Staff felt it necessary to set up certain requirements because of the potential impact to public safety. Those requirements are as follows:

Disconnects and/or Abandonments of Service
In the proposed application, the Applicant agrees to abide by the requirements set forth in the minimum telephone service standards (MTSS) which pertains to emergency and outage operations impacting 9-1-1 service. Staff finds that consistent with this rule, are concerned that 9-1-1 service not be interrupted due to a business determination on behalf of the applicant or a county that the applicant no longer wishes to serve in the capacity of an ESTC, Staff finds that the applicant must obtain Commission approval prior to discontinuing or disconnecting service in a specific county or throughout the entire state of Ohio. All such requests should be filed as non-automatic approval abandonment cases.

Outbound emergency notification messaging
Staff notes that although the Applicant is not currently offering "outbound emergency notification messaging" service or also known as "Reverse 9-1-1", Staff expects the applicant to

file a tariff on this service once the service is requested from any county it serves. With respect to this particular service, the Commission previously determined that the provisioning of this service is not competitive due to the fact that the 9-1-1 database is compiled and held in "public trust" and not able to be released to any outside third party. As a result all tariffs filed by the Applicant for this service should be held at cost and will be considered on a non-automatic basis.

pANI Resources and Number Optimization

Pursuant to its designation as an emergency services telecommunications provider, the Applicant is entitled to access of pANI resources. Staff expects that such pANI resources will be obtained and utilized by the Applicant in an efficient manner consistent with the FCC's number optimization rules in 47 C.F.R §52. The Staff recommends that the Commission directs Applicant to make available to the Commission's Staff, upon request, information concerning the Applicant's application for and/or utilization of pANI resources.

CONCLUSION & STAFF RECOMMENDATION:

Staff has thoroughly reviewed this application and found that, as amended on December 7, 2007 and January 28, 2008, it is in compliance with Commission Rules and Regulations. Therefore, Staff recommends that this application be approved as discussed above via Commission Finding and Order.

"DRAFT-This document was created only for the purpose stated within. It is for staff discussion only and does not reflect the view of the Commission."

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Electronic Mail and U.S. Mail this 12th day of February, 2008.

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