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VIA ELECTRONIC FILING

Ms. Ann Cole, Director
Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 070699-TP

Dear Ms. Cole:

Enclosed for filing on behalf of Intrado Communications Inc. is an electronic version of Intrado Communications Inc.'s Post-Hearing Brief in the above referenced docket. Also enclosed is a MS Word 2003 version of the document.

Thank you for your assistance with this filing.

Sincerely yours,



Floyd R. Self

FRS/amb

Enclosure

cc: Rebecca Ballesteros, Esq.
Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of the Petition)	
of Intrado Communications Inc. for Arbitration)	Docket No. 070699-TP
Pursuant to Section 252(b) of the Communications Act)	
of 1934, as amended, and Section 364.162, Florida)	Filed: August 7, 2008
Statutes to Establish an Interconnection Agreement with)	
Embarq Florida, Inc.)	

POST-HEARING BRIEF OF INTRADO COMMUNICATIONS INC.

Intrado Communications Inc. (“Intrado Comm”), by its attorneys, hereby submits its Post-Hearing Brief in connection with Intrado Comm’s Petition for Arbitration of certain rates, terms, and conditions for interconnection and related arrangements with Embarq Florida, Inc. (“Embarq”) pursuant to Section 252(b) of the Communications Act of 1934, as amended (“Act”)¹ and Section 364.162, Florida Statutes.² The Florida Public Service Commission (“Commission”) should adopt Intrado Comm’s positions and proposed interconnection agreement language as set forth herein and in Attachment 1.

INTRODUCTION

911/E911 services save lives and property by helping emergency services personnel do their jobs more quickly and efficiently.³ Intrado Inc. has been providing 911 database management services to incumbent local exchange carriers (“ILECs”) since 1979.⁴ Today,

¹ 47 U.S.C. § 252(b).

² 364.162, Florida Statutes.

³ *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 11 FCC Rcd 18676, ¶ 5 (1996).

⁴ Transcript at 10, line 20 to 11, line 4 (Hicks).

eleven ILECs rely on Intrado Inc. for these 911 database management services.⁵ The formation of Intrado Comm has built on its parent's emergency service expertise to become an integral part of the public safety industry since its inception in 1999.⁶ Intrado Comm is poised to offer Florida counties, public safety agencies, and Public Safety Answering Points ("PSAPs") a competitive alternative for their 911/E911 services, which have traditionally been provided by ILECs like Embarq.⁷ Intrado Comm's competitive 911/E911 service offering directly responds to the goals of Congress and the Federal Communications Commission ("FCC") by providing "meaningful automatic location identification information that permits first responders to render aid, regardless of the technology or platform employed" by the caller.⁸ As the FCC has determined, it is imperative that public safety officials receive "accurate and timely information concerning the current location of an individual who places an emergency call, notwithstanding the platform or technology used by the provider or the means by which the individual places the call."⁹

Intrado Comm, however, cannot offer its innovative 911/E911 service offering to Florida PSAPs without first establishing mutually beneficial interconnection and interoperability arrangements with the ILECs who control access to the public switched telephone network ("PSTN").¹⁰ Intrado Comm seeks interconnection with Embarq, which will allow Embarq's end

⁵ Transcript at 11, lines 5-10 (Hicks).

⁶ Transcript at 133, lines 21-22 (Spence-Lenss Direct).

⁷ Hearing Exhibit No. 8, Deposition of Thomas Hicks at 8, lines 1-4.

⁸ *Wireless E911 Location Accuracy Requirements*, 22 FCC Rcd 10609, ¶ 6 (2007).

⁹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 23 FCC Rcd 5255, ¶ 23 (2008) ("TRs 911 Order").

¹⁰ Transcript at 17, lines 3-6 (Hicks).

users to reach Intrado Comm's initial end users (*i.e.*, Florida PSAPs) and vice versa.¹¹ These arrangements also will meet the goal of ensuring that "Americans have access to a resilient and reliable 911 system irrespective of the technology used to provide the service."¹²

Section 251(c) of the Act provides the most suitable vehicle for ensuring that Intrado Comm obtains the interconnection and interoperability arrangements it needs to provide its 911/E911 services to Florida counties and PSAPs while, at the same time, promoting the reliability and redundancy critical to public safety.¹³ Section 251(c) was intended to facilitate "[v]igorous competition," which Congress understood "would be impeded by technical disadvantages and other handicaps that prevent a new entrant from offering services that consumers perceive to be equal in quality to the offerings of [ILECs]."¹⁴ Therefore, the process established by Section 251(c) and the FCC's implementing rules eliminates these barriers to entry to give competitors like Intrado Comm "a fair opportunity to compete" in the marketplace.¹⁵

Like other consumers of telecommunications services who have benefited from Section 251(c) competition, Florida public safety entities deserve competitive choices and state-of-the art

¹¹ Transcript at 86, line 23 to 87, line 12 (Hicks Direct).

¹² *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, 22 FCC Rcd 10541, ¶ 96 (2007) ("*Katrina Order*").

¹³ Transcript at 109, lines 16-18 (Hicks Rebuttal); *see also* Transcript at 164, lines 9-11 (Hicks).

¹⁴ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, 11 FCC Rcd 15499, ¶ 16 (1996) ("*Local Competition Order*") (intervening history omitted), *aff'd* by *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).

¹⁵ *Local Competition Order* ¶ 18; *see also* Hearing Exhibit No. 8, Deposition of Thomas Hicks at 9, lines 1-18.

technologies.¹⁶ Intrado Comm's network incorporates IP-based technologies and, as such, is able to fully accommodate legacy analog services and the myriad of IP-based services being offered today as well as readily adapt for the technologies of tomorrow, which are generally not supported by existing 911 networks.¹⁷ Adoption of Intrado Comm's proposed positions and contract language will "enable the public safety community to focus on future needs rather than requiring more from legacy systems, offer more redundancy and flexibility, and contribute greatly to improving compatibility between public safety systems that operate using different proprietary standards."¹⁸

STATEMENT OF ISSUES AND POSITIONS

Intrado Comm's positions and proposed language for inclusion in the Parties' Section 251(c) interconnection agreement are premised on achieving efficient and effective interconnection and interoperability arrangements with Embarq while providing Florida public safety entities and consumers the reliability, redundancy, and diversity they demand and deserve.

*****Issue 1(a)**: Intrado Comm's competitive 911/E911 services are telephone exchange services and are appropriately classified as telecommunications services. The classification of the service provider used by the 911 caller to reach Intrado Comm's PSAP customer has no bearing on the classification of the 911/E911 service Intrado Comm provides to the PSAP.

*****Issue 1(b)**: Intrado Comm is entitled to interconnect its network with Embarq to access the PSTN, which Intrado Comm needs to provide 911/E911 services to Florida counties and PSAPs. Sections 251/252 were designed to promote the type of interconnection and interoperability Intrado Comm seeks.

*****Issue 1(c) and 1(d)**: The rates proposed by Intrado Comm to facilitate Embarq's connection to Intrado Comm's network are reasonable and have not been challenged by Embarq.

¹⁶ Transcript at 207-08 (Melcher Rebuttal).

¹⁷ Transcript at 80, lines 5-10 (Hicks Direct).

¹⁸ Katrina Order ¶¶ 74-75, 80-82.

Inclusion of these rates in the Parties' Section 251(c) interconnection agreement is appropriate because they support the mutual exchange of traffic between the Parties.

*****Issue 2:** Line Attribute Routing is technically feasible and provides the most reliable and redundant 911/E911 network. Industry recommendations support the use of the trunking arrangements sought by Intrado Comm and Embarq imposes similar traffic routing requirements on competitors when they seek to terminate 911/E911 traffic on Embarq's network.

*****Issue 3:** Intrado Comm's proposed physical architecture arrangement benefits public safety. Interconnection on Intrado Comm's network is appropriate when Intrado Comm is the designated 911/E911 service provider and is consistent with the purpose of Section 251(c), the manner in which adjacent ILECs provide 911/E911 services today, and industry recommendations and guidelines.

*****Issue 4:** The inter-selective router arrangements requested by Intrado Comm are consistent with the interconnection and interoperability requirements of Section 251(c), and would put Intrado Comm on equal footing with other 911/E911 service providers in Florida. Separate, formal agreements with counties or PSAPs are not necessary.

*****Issue 5:** Provisions regarding Intrado Comm's ordering process are appropriate for inclusion in the Parties' Section 251(c) interconnection agreement because these terms are necessary for the mutual exchange of traffic between the Parties' networks.

*****Issue 6(a):** Resolved

*****Issue 6(b):** Provisions regarding database access when Intrado Comm is the designated 911/E911 service provider are appropriate for the Parties' Section 251(c) interconnection agreement because these terms are necessary for the mutual exchange of traffic between the Parties.

*****Issue 7:** 911/E911 service calls should be included in the types of traffic exchanged over local interconnection trunks like any other local telephone exchange traffic. Intrado Comm's language is appropriate for a Section 251(c) interconnection agreement.

*****Issue 8:** Resolved

*****Issue 9:** Resolved

*****Issue 10:** Resolved

*****Issue 11:** Intrado Comm's proposed definition of "End User" reflects the services Intrado Comm offers today, the services Intrado Comm may offer in the future, and those entities that are appropriately classified as end users and eligible to purchase Intrado Comm's services under the law.

*****Issue 12:** Resolved

*****Issue 13**: The term “designated” accurately identifies the Party serving the PSAP. Embarq should not be permitted to use the “primary/secondary” dichotomy to charge Florida counties and PSAPs for services Embarq no longer provides.

*****Issue 14**: Independent third-party auditors should be required for audits of a direct competitor. Given the other mechanisms available to the Parties in the interconnection agreement, it is unlikely that the audit provision will ever be triggered. Using third-party auditors is common industry practice and eliminates concerns regarding the potential for impropriety.

Intrado Comm’s proposed positions and language should be adopted for inclusion in the Parties’ Section 251(c) interconnection agreement.

ARGUMENT

I. SECTION 251(c) IS THE APPROPRIATE VEHICLE FOR THE PARTIES TO INTERCONNECT THEIR NETWORKS (ISSUES 1(a) and 1(b))

A. Section 251(c) Provides the Necessary Interconnection to the Public Switched Telephone Network that Intrado Comm Needs to Provide Services in Florida

In order for Intrado Comm to provide its 911/E911 services to Florida public safety agencies, Intrado Comm must interconnect with ILECs like Embarq that control a significant majority of the local exchange market, and consequently, the consumers that make 911 calls destined for Intrado Comm served PSAPs.¹⁹ The appropriate method of achieving such interconnection is through the framework established by Sections 251 and 252 of the Act, which was designed to promote competition by facilitating the interconnection of new entrants to the PSTN and to ensure the interoperability of co-carrier networks.²⁰ Indeed, when Congress amended the Act in 1996 to open local exchange markets to competition,²¹ it recognized that

¹⁹ Transcript at 86, lines 19-23 (Hicks Direct).

²⁰ *Local Competition Order* ¶ 10.

²¹ Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. §§ 151, *et seq.* (1996)).

ILECs, such as Embarq, would have the incentive to thwart competition and therefore it established the Section 251/252 negotiation and arbitration process, which conferred upon competitive carriers not only a right to interconnect with the incumbent, but the right to do so on fair and pro-competitive terms.

Despite Embarq's claims that Embarq does not control access to the wireline E911 network,²² Intrado Comm cannot offer its 911/E911 services in Florida without interconnecting to the PSTN, and Embarq is one of the dominant gatekeepers to that network.²³ Sections 251/252 were designed to protect competitors from experiencing unreasonable delays in entering the marketplace formerly controlled exclusively by the incumbent.²⁴ Unlike commercial negotiations where both parties may have an incentive to reach agreement, ILECs have generally demonstrated a reluctance to abide by the law, and thus, arbitration is necessary to ensure that competitors without equal bargaining power have their rights protected.²⁵ Section 252 of the Act is specifically designed to address the very unequal bargaining power manifest in negotiations between ILECs and competitors in order to advance Congress's goal of increased competition.²⁶

²² Transcript at 265, lines 1-2 (Maples Direct).

²³ Transcript at 18, lines 4-6 (Hicks); Hearing Exhibit No. 8, Deposition of Thomas Hicks at 17, line 25 to 18, line 16.

²⁴ See, e.g., *Atlantic Alliance Telecommunications, Inc. v. Bell Atlantic*, 2000 U.S. Dist. LEXIS 19649, 99-CV-4915 (ARR) (E.D. Va 2000) (noting that "[t]he tight schedule set out in the Act manifests an intention of Congress to resolve disputes expeditiously," that the strict timelines contained in the Telecommunications Act indicate Congress' desire to open up local exchange markets to competition without undue delay") (quoting *AT&T Communications Sys. v. Pacific Bell*, 203 F.3d 1183, 1186 (9th Cir. 2000) and that "the legislative history explains that the purpose of the Act is 'to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition'" (quoting H.R. Conf. Rep. No. 104-458, at 113 (1996) reprinted in 1996 U.S.C.C.A.N. 10, 124)).

²⁵ *Local Competition Order* ¶ 41 (noting "significant imbalances in bargaining power").

²⁶ *Local Competition Order* ¶ 15 (the "statute addresses this problem [of the incumbent's "superior bargaining power"] by creating an arbitration proceeding in which the new entrant may assert certain rights"); see also *id.* ¶ 134 (noting that because it is the new entrant's objective to obtain services and access to facilities from the incumbent and thus "has little to offer the incumbent in a negotiation," the Act creates an arbitration process to equalize this

Embarq's witness admits that in order for a competitor to provide 911/E911 services to a Florida PSAP, the competitor must be interconnected with the PSTN.²⁷ Competitors are entitled to interconnect with ILECs pursuant to 251(c).²⁸ Intrado Comm is a competitive local exchange carrier ("CLEC") and Embarq is an ILEC, yet Embarq claims Intrado Comm is the one CLEC that should be denied its 251(c) rights. Intrado Comm's legal right to 251(c) interconnection is well-established. As the FCC has recognized:

absent interconnection between the [ILEC] and the entrant, the customer of the entrant would be unable to complete calls to subscribers served by the [ILEC]'s network. Because an [ILEC] currently serves virtually all subscribers in its local serving area, an [ILEC] has little economic incentive to assist new entrants in their efforts to secure a greater share of that market. An [ILEC] also has the ability to act on its incentive to discourage entry and robust competition by not interconnecting its network with the new entrant's network or by insisting on supracompetitive prices or other unreasonable conditions for terminating calls from the entrant's customers to the [ILEC]'s subscribers.²⁹

Congress addressed these problems in the 1996 Act by requiring ILECs to enter into an agreement with the new entrant on just, reasonable, and nondiscriminatory terms to enable the competitor's customers to place calls to and receive calls from the ILEC's subscribers.³⁰ Intrado Comm's request for Section 251(c) interconnection is premised on these same principles.

bargaining power).

²⁷ Transcript at 383, line 22 to 384, line 2 (Maples).

²⁸ *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, et al.*, 17 FCC Rcd 27039, n.200 (2002) ("Virginia Arbitration Order") (stating that ILECs are required by Section 251(c)(2) to allow competitors to interconnect while interconnection arrangements between "non-incumbent carriers" are governed by Section 251(a)).

²⁹ *Local Competition Order* ¶ 10.

³⁰ *Local Competition Order* ¶¶ 10-11, 13.

Intrado Comm cannot provide 911/E911 services in Florida today (other than in a test environment) without interconnection to the PSTN pursuant to 251(c).³¹

B. Intrado Comm Provides Telephone Exchange Service

When Intrado Comm provides its complete 911/E911 service offering to Florida public safety agencies and PSAPs, Intrado Comm is a telecommunications carrier providing telephone exchange service. Embarq's arguments to the contrary should be rejected for the following reasons:

First, Intrado Comm's services have the same qualities as other telephone exchange services.³² The FCC has found that "telephone exchange service [is] not limited to traditional voice telephony, but include[s] non-traditional 'means of communicating information within a local area.'"³³ The FCC has also stated "a key component of telephone exchange service is 'intercommunication' among subscribers within a local exchange area."³⁴ Intrado Comm's service fulfills this "key component" because it allows Florida consumers to be connected with PSAPs and communicate with local emergency personnel.

The FCC has found other non-traditional telephone services are telephone exchange services. For example, in its *Advanced Services Order*, the FCC found that even if "the transmission is a data transmission rather than a voice transmission ... such transmissions nevertheless constitute telephone exchange service."³⁵ It added "[i]n this era of converging

³¹ Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 11.

³² Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 6.

³³ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd 385, ¶ 17 (1999) ("*Advanced Services Order*").

³⁴ *Advanced Services Order* ¶ 30.

³⁵ *Advanced Services Order* ¶ 21.

technologies, limiting the telephone exchange service definition to voice-based communications would undermine a central goal of the 1996 Act.”³⁶ The FCC therefore found that certain advanced DSL-based services are telephone exchange services “when used to permit communications among subscribers within an exchange or within a connected system of exchanges.”³⁷ The FCC has also found that certain electronic directory information services are telephone exchange services: “the call-completion service offered by many competing [directory assistance] providers constitutes intercommunication because it permits a community of interconnected customers to make calls to one another in the manner prescribed by the statute.”³⁸

The provision of telephone exchange services is not limited to services that must be provided over the competitive carrier’s exchange. The FCC has explicitly stated that it “has never suggested that the telephone exchange service definition is limited to voice communications provided over the public circuit-switched network.”³⁹ Rather, the Commission found that

Congress’ redefinition of ‘telephone exchange service’ was intended to include in that term not only the provision of traditional local exchange service (via facilities ownership or resale), but also the provision of alternative local loops for telecommunications services, separate from the public switched telephone network, in a manner ‘comparable’ to the provision of local loops by a traditional local telephone exchange carrier.⁴⁰

Thus, the fact that the wireline 911 network is interconnected to, but separate from, the PSTN⁴¹

³⁶ *Advanced Services Order* ¶ 21.

³⁷ *Advanced Services Order* ¶ 20.

³⁸ *Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended*, 16 FCC Rcd 2736, ¶ 17 (2001).

³⁹ *Advanced Services Order* ¶ 20.

⁴⁰ *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 11501, ¶ 54 (1998) (emphasis added).

⁴¹ 47 C.F.R. § 9.3 (defining wireline E911 network).

does not change the classification of the 911/E911 services to be provided by Intrado Comm.

Second, Intrado Comm will offer 911/E911 services to Florida public safety agencies similar to the product currently offered by Embarq in Florida. Interestingly, Embarq's Florida tariff specifically states that Embarq's 911 service

is a *telephone exchange communication service* whereby a Public Safety Answering Point (PSAP) designated by the customer may receive telephone calls to the telephone number 911 . . . [and] includes lines and equipment necessary for the answering, transferring, and dispatching of public emergency telephone calls originated by persons within the serving area who dial 911.⁴²

Embarq cannot credibly argue that Intrado Comm's 911/E911 service offering is not telephone exchange service when it classifies its own service as such.⁴³

Third, there is no merit to Embarq's claims that Intrado Comm's tariff acknowledges that Intrado Comm does not provide local exchange services.⁴⁴ The 911/E911 services provided by Intrado Comm are not intended to replace all of the local exchange services to which the public safety agencies may subscribe. Florida counties or PSAPs subscribe to additional local exchange service for administrative purposes, such as to place outgoing calls and to receive other emergency or non-emergency calls, including any which might be relayed by operators or terminated on PSTN-accessible local exchange telephone lines.⁴⁵ The statements in Intrado Comm's Florida tariff acknowledge this and are virtually identical to the requirements contained in Embarq's Florida tariff for 911/E911 services.⁴⁶ In its tariff, Embarq indicates that PSAPs

⁴² Embarq Florida, Inc. General Exchange Tariff, Section A10, Third Revised Sheet 1 (effective Nov. 2, 2006) (emphasis added); *see also* Hearing Exhibit No. 22 (providing relevant provisions of Embarq Florida tariff).

⁴³ Transcript at 143, line 22 to 144, line 9 (Spence-Lenss Direct).

⁴⁴ Transcript at 331, lines 11-15 (Maples Rebuttal).

⁴⁵ Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 57.

⁴⁶ Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 57; *see also* Hearing Exhibit No. 26

must “subscribe to local exchange service at the PSAP location for administrative purposes, for placing outgoing calls, and for receiving other calls.”⁴⁷ Intrado Comm understands PSAPs have a competitive choice when purchasing local exchange services for administrative purposes and acknowledges this in its tariff.

Fourth, the interconnection arrangements Intrado Comm seeks from Embarq are for the mutual exchange of traffic.⁴⁸ While 911 trunks are generally one-way trunks, they are capable of originating a call in a conferencing capacity, and may be used for two-way traffic purposes. For example, once a 911 call is delivered over the one-way trunks to the PSAP, the PSAP may then “hookflash” to obtain dial tone to originate a bridged call to a third-party.⁴⁹ The “mutual exchange” of traffic need not actually occur over the same trunks, and may be properly reflected by traffic flows of originating and terminating traffic between the various trunking configurations established between the interconnected parties.⁵⁰ Further, although these trunks are engineered as one-way, they are capable of supporting two-way voice communications.

Section 251(c) interconnection agreements often contain provisions relating to 800 or toll-free services, operator services, directory assistance, telecommunications relay service (711), and other types of services that are typically viewed as “one-way” services.⁵¹ For example,

(providing Intrado Comm’s revised tariff).

⁴⁷ Embarq Florida, Inc. General Exchange Tariff, Section A10, Third Revised Sheet 11 (effective Nov. 2, 2006); *see also* Hearing Exhibit No. 22 (providing relevant provisions of Embarq Florida tariff).

⁴⁸ 47 C.F.R. § 51.5 (defining “interconnection”); *see also* Transcript at 115, lines 10-18 (Hicks Rebuttal) (discussing how Intrado Comm’s proposed arrangements fit into the definition of “interconnection” adopted by the FCC).

⁴⁹ Transcript at 154, lines 6-20 (Spence-Lenss Rebuttal).

⁵⁰ *Advanced Services Order* ¶¶ 20-21, 30 (discussing “intercommunication” as the hallmark of telephone exchange service).

⁵¹ *See, e.g.*, Attachment 1 to Intrado Comm Petition for Arbitration at Section 56.3 (terms and conditions for the exchange of 800 traffic); *see also* Transcript at 155, lines 1-4 (Spence-Lenss Rebuttal).

many providers of directory assistance offer a call completion service that allows the caller to connect to the party for which it was seeking information. Although these calls are only one-way (from the caller to the directory assistance provider and then to the ultimate called party), the FCC determined that directory assistance providers offering call completion services were providing telephone exchange services.⁵² The FCC reasoned that the call completion service allows a “local caller to connect to another local telephone subscriber and, in that process, through a system of either owned or resold switches, enables the caller to originate and terminate a call.”⁵³ Thus, while the call completion service offered by the directory assistance provider “may not take the form of an ordinary telephone call (*i.e.*, one initiated by LEC provision of dial tone), [it] nonetheless ‘allows a local caller at his or her request to connect to another local telephone subscriber.’”⁵⁴ The same analogy applies for 911/E911 services. Intrado Comm’s provision of services to the PSAP allows the 911 caller to connect to its requested party, *i.e.*, the first responders answering the emergency call.⁵⁵

In sum, Intrado Comm’s 911/E911 services are appropriately classified as telephone exchange services.

⁵² *Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended*, 16 FCC Rcd 2736, ¶¶ 20-21 (2001) (“*DA Call Completion Order*”).

⁵³ *DA Call Completion Order* ¶ 20.

⁵⁴ *DA Call Completion Order* ¶ 21.

⁵⁵ Transcript at 181, lines 9-10 (Hicks) (“it avails the PSTN users to make connectivity to another PSTN user, the PSTN users being the PSAPs”).

C. The 911/E911 Service Offering Provided by Intrado Comm Is Appropriately Classified as a Telecommunications Service, Not an Information Service or an Interconnected Voice over Internet Protocol Service (“VoIP”)

Embarq claims that the way in which 911/E911 service calls may be routed over Intrado Comm’s network affects how the 911/E911 service should be classified.⁵⁶ Embarq’s arguments should be rejected.

First, Intrado Comm’s inclusion of internet protocol within its network has no bearing on the classification of the 911/E911 service Intrado Comm will provide to Florida PSAPs.⁵⁷ The FCC has determined that the mere incorporation of Internet protocol within a carrier’s network does not transform the services provided by the carrier into unregulated information services absent other considerations.⁵⁸ How Intrado Comm may transport calls within its network has no bearing on the classification of the ultimate 911/E911 service offering it provides to Florida PSAPs.⁵⁹

Second, Embarq’s argument ignores the nature of the comprehensive, integrated 911/E911 service offering Intrado Comm will provide in Florida. As Intrado Comm’s witness explained, there are three integrated components that are necessary to provide 911/E911 service – the selective router, the database system that retains the Automatic Location Information

⁵⁶ See, e.g., Transcript at 309, lines 16-20 (Maples Rebuttal); Transcript at 333, lines 1-4 (Maples Rebuttal); Transcript at 22, lines 17-24 (Maples); Hearing Exhibit No. 7, Deposition of Mike Maples at 30, line 20; Hearing Exhibit No. 5, Embarq Response to Staff Interrogatory 2(h).

⁵⁷ Cf. Transcript at 22, lines 17-24 (Maples).

⁵⁸ *Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services Are Exempt from Access Charges*, 19 FCC Rcd 7457 (2004); see also *Regulation of Prepaid Calling Card Services*, 21 FCC Rcd 7290 (2006) (classifying as telecommunications services certain prepaid calling cards utilizing Internet Protocol); see also Transcript at 378, lines 16-17 (Maples) (admitting knowledge of IP-in-the-middle decision).

⁵⁹ Hearing Exhibit No. 8, Deposition of Thomas Hicks at 11, lines 11-24.

(“ALI”), and the transport of the 911 call.⁶⁰ While the ALI database function as a stand-alone service may be viewed as an information service (although in a carrier-to-carrier relationship pursuant to Section 251 it is considered a telecommunications service), the comprehensive 911/E911 service offering to be provided by Intrado Comm in Florida combines all three components into one integrated product just as Embarq’s 911/E911 service to PSAPs does today.⁶¹ The switching and transmission components would be useless without the ALI functions, and 911 call routing to the appropriate PSAP could not occur without the processing necessary for the creation of ALI records.⁶² Indeed, even Embarq’s witness admits that the databases are necessary to the provision of 911/E911 service.⁶³ The FCC also recognizes that all of the various components come together to form an all-inclusive service offering known as the “wireline E911 network.”⁶⁴ Further, the FCC has found ALI provisioning so essential to the 911 call process that it has imposed outage reporting requirements on ALI service providers when ALI services are disrupted for specified periods.⁶⁵ Segmenting the physical switching and routing of 911 calls from the database that provides the routing information for such calls, as Embarq appears to suggest, would significantly diminish the viability and reliability of 911

⁶⁰ Transcript at 83-86 (Hicks Direct).

⁶¹ Transcript at 143, lines 10-19 (Spence-Lenss Direct); Transcript at 161, lines 14-19 (Hicks).

⁶² Hearing Exhibit No. 8, Deposition of Thomas Hicks at 12, lines 7-17 (“if any one of the parts are removed one cannot have an effective E911 system”).

⁶³ Transcript at 240-41 (Maples Direct).

⁶⁴ *E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, ¶ 15 (2005) (“*VoIP E911 Order*”) (finding the Wireline 911 Network consists of the Selective Router, the trunk line(s) between the Selective Router and the PSAP, the ALI database, the SRDB, the trunk line(s) between the ALI database and the PSAP, and the MSAG).

⁶⁵ 47 C.F.R. § 4.5(e)(4).

services.⁶⁶ The bottom line is that the three integrated components are so intertwined that “one would be useless without the other.”⁶⁷

Third, Embarq’s arguments also disregard the long-standing principle that the classification of a service depends “on the nature of the service being offered to customers.”⁶⁸ What a company offers to a customer is what the customer perceives to be the integrated finished product, even to the exclusion of discrete components that compose the product.⁶⁹ Thus, the classification of Intrado Comm’s 911/E911 services turns on the nature of the functions offered,⁷⁰ how the service is marketed, and whether the information service features and the telecommunications service are a single, integrated offering.⁷¹ When a Florida public safety agency designates Intrado Comm as its 911/E911 service provider, it understands that it is purchasing a complete, integrated 911/E911 service offering, not separate piece parts.⁷²

Fourth, Embarq is also wrong in its implicit suggestion that Intrado Comm provides “interconnected VoIP services.”⁷³ The FCC has defined interconnected VoIP service as a service that: (1) enables real-time, two way voice communications; (2) requires a broadband connection from the user’s location; (3) requires Internet protocol-compatible customer premises

⁶⁶ Transcript at 82, lines 10-13 (Hicks Direct).

⁶⁷ Transcript at 82, lines 10-13 (Hicks Direct).

⁶⁸ *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 11501, ¶ 59 (1998).

⁶⁹ *National Cable & Telecommunications Association v. Brand X Internet Services*, 125 S. Ct. 2688, 2704 (2005) (“*Brand X*”).

⁷⁰ *Brand X*, 125 S. Ct. at 2704.

⁷¹ *Regulation of Prepaid Calling Card Services*, 21 FCC Rcd 7290, ¶ 13 (2006).

⁷² Transcript at 157, lines 10-16 (Spence-Lenss Rebuttal); Hearing Exhibit No. 8, Deposition of Thomas Hicks at 12, lines 7-17.

⁷³ See, e.g., Transcript at 328, lines 3-6 (Maples Rebuttal); Transcript at 325, lines 10-12 (Maples Rebuttal); Transcript at 22, lines 11-14 (Maples).

equipment (“CPE”); and (4) permits users generally to receive calls that originate on the PSTN and to terminate calls to the PSTN.⁷⁴ The service that Intrado Comm provides to Florida PSAPs (*i.e.*, the “user” in the FCC’s definition), does not meet these requirements. Intrado Comm’s service offering does not *require* the PSAP to have a “broadband connection” or IP-compatible CPE. Rather, as Intrado Comm’s witness states, Intrado Comm’s 911/E911 service offering is designed to work with existing legacy PSAP equipment.⁷⁵ Intrado Comm’s 911/E911 service offering does not meet the definition of interconnected VoIP and is therefore appropriately classified as a telecommunications service.

D. Interconnection of 911 Networks Is Governed by Section 251(c)

Interconnection between a CLEC and an ILEC for the purpose of providing competitive 911/E911 services to PSAP customers is governed by 251(c) of the Act.⁷⁶ The FCC has specifically confirmed that it

requires [local exchange carriers] to provide access to 911 databases and *interconnection to 911 facilities* to all telecommunications carriers, pursuant to sections 251(a) *and (c)* and section 271(c)(2)(B)(vii) of the Act. We expect that this would include all the elements necessary for telecommunications carriers to provide 911/E911 solutions. . . .⁷⁷

⁷⁴ 47 C.F.R. § 9.3.

⁷⁵ Transcript at 80, lines 5-10 (Hicks Direct).

⁷⁶ *Local Competition Order* ¶ 997.

⁷⁷ *VoIP E911 Order* ¶ 38 (emphasis added); *see also* n.128, 47 U.S.C. § 271(c)(2)(B)(vii)(1) (requiring Bell Operating Companies (“BOCs”) to provide nondiscriminatory access to 911 and E911 services to other telecommunications carriers); *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as Amended, to Provide In-Region, InterLATA Services in Michigan*, 12 FCC Rcd 20543, ¶ 256 (1997) (“[S]ection 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, *i.e.*, at parity.”); *id.* (“For facilities-based carriers, nondiscriminatory access to 911 and E911 service also includes the provision of unbundled access to [a BOC’s] 911 database and 911 interconnection, including the provision of dedicated trunks from the requesting carrier’s switching facilities to the 911 control office . . .”).

While the FCC's *VoIP E911 Order* was focused on ensuring providers would have interconnection to complete their customers' 911 calls to PSAPs, there is nothing to suggest that a competitor's right to 251(c) can be denied if it seeks to provide a competitive 911/E911 service to public safety agencies or PSAPs. The Act does not limit a competitor's right to seek 251(c) interconnection for certain kinds of telephone exchange services. As reviewed above, 911/E911 services to PSAPs are telephone exchange services, Intrado Comm is a competitive local exchange carrier, and Embarq is required by Section 251(c) to provide interconnection to Intrado Comm. Section 251(c) is the appropriate mechanism for Intrado Comm to secure "nondiscriminatory access to, and interconnection with, [Embarq's] networks for the provision of 911 and E911 services."⁷⁸

Under Section 251(c)(2)(C), Embarq must provide Intrado Comm with interconnection that is at least equal in quality to the interconnection Embarq provides itself for routing 911/E911 service calls.⁷⁹ Interconnection to the PSTN "is an essential component of [the] end-to-end" 911/E911 service Intrado Comm intends to provide in Florida.⁸⁰ The FCC has recognized the importance of ensuring competitors receive interconnection for 911/E911 services in the same manner that incumbents provide such service to themselves (*i.e.*, parity).⁸¹ Intrado Comm's proposed interconnection arrangements will ensure such parity.

⁷⁸ *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Petition of City of Richardson, Texas*, 17 FCC Rcd 24282, ¶ 25 (2002) ("*City of Richardson Order*").

⁷⁹ *Virginia Arbitration Order* ¶ 652.

⁸⁰ *City of Richardson Order* ¶ 25.

⁸¹ *Local Competition Order* ¶ 16.

E. The Use of Un-Filed, Un-Regulated Commercial Agreements by ILECs Undermines the Goals of and Violates the Act

Throughout this proceeding, Embarq has claimed that the arrangements requested by Intrado Comm should be included in a commercial agreement (*i.e.*, a Section 251(a) agreement), similar to the oral agreements Embarq has in place with several incumbent carriers in Florida today.⁸² Intrado Comm is not required to use a commercial agreement (*i.e.*, a Section 251(a) agreement) similar to the agreements Embarq has in place with other non-competing ILEC 911/E911 service providers today. And Intrado Comm and state commissions are entitled to review commercial agreements between Embarq and other non-competing ILECs pursuant to Section 252(a)(1).

A cornerstone principle of Sections 251 and 252 is to ensure that interconnection arrangements do not favor one carrier over another.⁸³ For this reason, the FCC determined that the Act requires all interconnection agreements, *including* those negotiated before the date of enactment, be submitted to state commissions for approval pursuant to Section 252(e).⁸⁴ The FCC specifically reviewed whether to exempt from Section 252(e) the contracts between neighboring non-competing ILECs like those agreements Embarq has in place with other 911/E911 service providers, and rejected that approach. The FCC found that, if it were to except

⁸² See, e.g., Transcript at 237, lines 5-6 (Maples Direct) (“when Embarq seeks access to the Wireline E911 Network provided by another entity, it does so via commercial arrangements”); Transcript at 264, lines 1-3 (Maples Direct) (“The peering arrangements that Embarq has established in Florida with AT&T and Verizon are verbal agreements that are established and managed by emergency service professionals for both companies.”).

⁸³ See, e.g., 47 U.S.C. §§ 251(c)(2)(D) (interconnection on rates, terms, and conditions that are just, reasonable, and nondiscriminatory), 252(d)(1) (state commission determinations must be nondiscriminatory); *Local Competition Order* ¶ 1296 (discussing intent of 251/252 to prevent discrimination).

⁸⁴ *Local Competition Order* ¶ 165; see also 47 U.S.C. § 252(a)(1) (agreements arrived at through voluntary negotiations, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the state commission for approval).

such agreements from public disclosure, the parties to those agreements might have an incentive to insulate themselves from competition in order to preserve the terms of their preexisting agreements.⁸⁵ The FCC reasoned that a new entrant cannot effectively compete if the new entrant is unable to obtain from an ILEC interconnection terms that are as favorable as those the ILEC offers a neighboring carrier.⁸⁶

Therefore, the FCC determined that state commissions “should have the opportunity to review all agreements, including those that were negotiated before the new law was enacted” to “best promote[] Congress’s stated goals of opening up local markets to competition, and permitting interconnection on just, reasonable, and nondiscriminatory terms” and “to ensure that such agreements do not discriminate against third parties.”⁸⁷ Having the opportunity to review existing agreements gives a state commission and potential competitors “a starting point for determining what is ‘technically feasible’ for interconnection,” such as the types of standards and operational procedures in place between carriers.⁸⁸ More recently, the FCC re-emphasized its earlier findings and explicitly stated that any “agreement that creates an ongoing obligation pertaining to resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, interconnection, unbundled network elements, or collocation is an interconnection agreement” subject to Section 252.⁸⁹

⁸⁵ *Local Competition Order* ¶ 168.

⁸⁶ *Local Competition Order* ¶ 168.

⁸⁷ *Local Competition Order* ¶ 167 (emphasis in original).

⁸⁸ *Local Competition Order* ¶ 167.

⁸⁹ *Qwest Communications International Inc. Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1)*, 17 FCC Rcd 19337, ¶ 8 (2002) (emphasis in original) (“*Qwest Order*”).

Using a non-252 commercial agreement as Embarq suggests would violate the Act's requirements that interconnection agreements be filed with state commissions pursuant to Section 252 as well as deny Intrado Comm its rights to a Section 251(c) agreement.^{90/} The use of a commercial arrangement between Embarq and Intrado Comm would also hinder other providers of competitive 911/E911 services' ability to compete with Embarq in the provision of 911/E911 services to PSAPs.⁹¹ Embarq cannot use the commercial agreement process to discriminate or to evade its responsibilities under the Act.

In sum, Section 251(c) is the appropriate vehicle for Intrado Comm to obtain the interconnection and interoperability it needs to provide competitive 911/E911 services to Florida public safety agencies.

II. INTRADO COMM'S PROPOSED PHYSICAL ARCHITECTURE ARRANGEMENT BENEFITS PUBLIC SAFETY, IS CONSISTENT WITH SECTION 251(c), AND SHOULD BE ADOPTED (ISSUES 2 AND 3)

While ILECs have experienced virtually no competition in their provision of 911/E911 services to PSAPs since the passage of the Act, the framework for local competition established in 1996 supports the arrangements proposed by Intrado Comm. A primary consideration for establishing interconnection with the PSTN for the competitive provision of 911/E911 services to PSAPs is what policies will best promote reliable and resilient services, and a diverse and redundant network for public safety agencies to most effectively respond to 911 callers. Thus, interconnection for the purposes of providing competitive 911/E911 services must look beyond the traditional interconnection arrangements used for plain old telephone service ("POTS") and seek to establish physical architecture arrangements that specifically address the special needs of

^{90/} 47 U.S.C. §§ 252(e)(1), (h).

911 callers and first responders. Interconnection for the purpose of allowing callers to call others is different from interconnection that ensures 911 callers reach the right PSAP when they have an emergency and need help.

911/E911 services “are unique and different.”⁹² This is demonstrated by the interconnection and routing arrangements ILECs have established between themselves (non-competing ILECs prior to and since the passage of the Act) and the arrangements ILECs impose on CLECs today for these services. The physical architecture arrangements Intrado Comm seeks in this proceeding are critical to issues of reliability, redundancy, and minimizing points of failure for 911/E911 services.⁹³ These are the key considerations when establishing interconnection arrangements for public safety providers.⁹⁴ A state commission’s authority pursuant to Section 253(b) of the Act to “protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers,”⁹⁵ and the mandate of Section 251(c) that ILECs must provide interconnection that is at least equal in

⁹¹ Cf. *Local Competition Order* ¶ 168.

⁹² See, e.g., *TRS 911 Order* ¶ 29 (recognizing “the importance of emergency call handling for all Americans”); *VoIP E911 Order* ¶ 6 (“the American public has developed certain expectations with respect to the availability of 911 and E911 emergency services”); see also Transcript at 365, line 23 (Maples) (“these services are unique”).

⁹³ See, e.g., *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Services*, 14 FCC Rcd 10954, ¶ 2 (1999) (adopting rules to “improve 911 reliability, [and] increase the probability that 911 calls will be efficiently and successfully transmitted to public safety agencies”); Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 (expressing intent of statute to establish a “seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation’s public safety and other communications needs”); see also *Katrina Order* ¶ 96 (recognizing goal to ensure “Americans have access to a resilient and reliable 911 system irrespective of the technology used to provide the service”); New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283 (recognizing importance of reliable 911 systems).

⁹⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 23 FCC Rcd 5255, ¶ 23 (2008) (recognizing the goal to have the most efficient and most reliable 911/E911 network possible regardless of the platform or technology used by end user’s service provider or the means by which the individual places the call).

⁹⁵ 47 U.S.C. § 253(b).

quality to that provided by the ILEC to itself and others,⁹⁶ support and necessitate the adoption of Intrado Comm's proposals in their entirety.

A. Interconnection on Intrado Comm's Network Is Appropriate when Intrado Comm Is the Designated 911/E911 Service Provider

Embarq has admitted repeatedly that the point of interconnection ("POI") between the Parties' networks should be at the selective router serving the PSAP.⁹⁷ Embarq likewise recognizes that the POI is to be located at Intrado Comm's selective router when Intrado Comm is the designated 911/E911 service provider.⁹⁸ This arrangement is consistent with the purpose of Section 251, the way in which adjacent ILECs provide 911 services to PSAPs today, and industry recommendations and guidelines.

1. Interconnection on the ILEC Network Was Required for the Benefit of Competitors like Intrado Comm, Not Incumbents like Embarq

In enacting and implementing the Act, the goal of both Congress and the Commission was to ensure that new entrants could effectively compete with the entrenched incumbent provider. Section 251(c)(2) has four components to ensure effective interconnection arrangements between ILECs and CLECs are achieved. Interconnection is to be for the transmission and routing of telephone exchange service and exchange access;⁹⁹ at any technically feasible point within the carrier's network;¹⁰⁰ that is at least equal in quality to that provided by the ILEC to itself or to any subsidiary, affiliate, or any other party to which the

⁹⁶ 47 U.S.C. § 251(c)(2)(C).

⁹⁷ See, e.g., Transcript at 279, lines 1-3 (Maples Direct); Transcript at 351, lines 3-5 (Maples Rebuttal); Hearing Exhibit No. 5, Embarq Response to Staff Interrogatory 15.

⁹⁸ See, e.g., Hearing Exhibit No. 7, Deposition of Mike Maples at 31, lines 11-17; Hearing Exhibit No. 5, Embarq Response to Staff Interrogatory 17 ("Embarq has agreed to establish a POI at Intrado's selective router").

⁹⁹ 47 U.S.C. § 251(c)(2)(A).

carrier provides interconnection;¹⁰¹ and on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with Section 252 of the Act.¹⁰² The FCC, in its rules to implement the Act, gave competing carriers the option to select the most efficient points at which to exchange traffic with the ILEC.¹⁰³ The FCC found that Section 251(c)(2) gave competitors “the right” to interconnect on the ILEC’s network rather than obligating competitors to transport traffic to less convenient or efficient points.¹⁰⁴ Giving competitors this “right” was intended to lower barriers to entry.¹⁰⁵ Thus, Section 251(c)(2)(B)’s requirement that the POI be on the ILEC’s network was established for the benefit of the competitor, not the ILEC.

To provide competitors with further benefits and ease of entry, the FCC determined that competitors have the right to establish only one interconnection point with the ILEC, which protected competitors from ILEC demands to interconnect at multiple points on the ILEC network.¹⁰⁶ The FCC found that the single point of interconnection rule benefits the *competitor* by permitting it to interconnect for delivery of its traffic at a single point on the ILEC’s network.¹⁰⁷ While the single point of interconnection rule was available to competitors, the FCC expressly recognized competitors were not precluded from establishing an alternative arrangement, such as one that permitted the ILEC to deliver its traffic to a different point or

¹⁰⁰ 47 U.S.C. § 251(c)(2)(B).

¹⁰¹ 47 U.S.C. § 251(c)(2)(C).

¹⁰² 47 U.S.C. § 251(c)(2)(D).

¹⁰³ *Local Competition Order* ¶ 172.

¹⁰⁴ *Local Competition Order* ¶ 209.

¹⁰⁵ *Local Competition Order* ¶ 209.

¹⁰⁶ *Developing a Unified Intercarrier Compensation Regime*, 16 FCC Rcd 9610, ¶ 112 (2001) (“*Intercarrier Compensation NPRM*”) (“[A]n ILEC must allow a requesting telecommunications carrier to interconnect at any technically feasible point, including the option to interconnect at a single POI per LATA.”).

additional points that were more convenient for the incumbent than the single point designated by the competitor.¹⁰⁸ Indeed, the FCC recognized that, while the Act *permits* a competitor to choose where it will deliver its traffic, “carriers do not always deliver originating traffic and receive terminating traffic at the same place.”¹⁰⁹ The FCC’s implementing regulations were developed based on its recognition that the framework established by Section 251(c) was established for the benefit of the competitor and could be altered if the competitor chose to forego its rights.

The FCC further concluded that these were intended to be minimum national standards for just, reasonable, and nondiscriminatory terms and conditions of interconnection to offset the imbalance in bargaining power.¹¹⁰ The FCC clarified that the term “nondiscriminatory” in the 1996 Act was not synonymous with “unjust and unreasonable discrimination” used in the 1934 Act; it is a more stringent standard.¹¹¹ The FCC determined that for Section 251 purposes, if an ILEC provides interconnection to a competitor in a manner that is less efficient than the ILEC provides itself, the ILEC violates the duty to be “just” and “reasonable” under Section 251(c)(2)(D). The FCC went on to add that ILECs may not discriminate against parties based upon the identity of the carrier.¹¹²

¹⁰⁷ *Virginia Arbitration Order* ¶ 71.

¹⁰⁸ *Virginia Arbitration Order* ¶ 71.

¹⁰⁹ *Virginia Arbitration Order* ¶ 71.

¹¹⁰ *Local Competition Order* ¶ 216.

¹¹¹ *Local Competition Order* ¶ 217.

¹¹² *Local Competition Order* ¶ 218.

2. ILECs Have Historically Delivered 911/E911 Traffic to the Network of the Entity Serving the PSAP or Required Competitors to Bring 911/E911 Traffic to the ILEC

Interconnection that is at least equal in type, quality, and price to the interconnection arrangements the ILEC provides to itself and others was required of ILECs to ensure effective local competition emerged.¹¹³ The FCC determined that 251(c)(2)(C) interconnection that is *at least* equal in quality to that enjoyed by the ILEC itself, was the minimum requirement.¹¹⁴ Embarq recognizes that the ILEC-established industry practice is that the POI for connecting to the 911/E911 network is at the selective router.¹¹⁵ This is consistent with the FCC's finding that the "cost-allocation point" for the exchange of 911/E911 traffic should be at the selective router.¹¹⁶

In today's environment, when Embarq is not the 911/E911 service provider for a PSAP, Embarq takes its originating end users' 911 calls to a meet point established with an adjacent carrier or all the way to the adjacent carrier's selective router.¹¹⁷ Similar to the interconnection arrangement proposed by Intrado Comm, Embarq establishes a trunk group from its end office switch to the adjacent ILEC's selective router, and 911 calls made by Embarq's end users to the PSAP served by the adjacent ILEC are terminated at the adjacent carrier's selective router.¹¹⁸ While Intrado Comm is not privy to the oral agreements between Embarq and adjacent ILECs,

¹¹³ S. Rep. No. 104-23, at 20 (1995).

¹¹⁴ *Local Competition Order* ¶ 225.

¹¹⁵ *See, e.g.*, Transcript at 279, lines 1-3 (Maples Direct); Transcript at 351, lines 3-5 (Maples Rebuttal).

¹¹⁶ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request of King County*, 17 FCC Rcd 14789, ¶ 1 (2002).

¹¹⁷ Exhibit No. 8, Deposition of Thomas Hicks at 19, lines 5-25.

¹¹⁸ Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 61.

Intrado Comm seeks interconnection between its network and Embarq's network that is similar to what Embarq has implemented for itself and with other 911/E911 service providers in Florida.

The Act entitles Intrado Comm to interconnection "that is at least equal in quality to that provided by the [ILEC] to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection."¹¹⁹ The existence of these arrangements demonstrates that such arrangements are the preferred method of interconnection for completing calls to the 911/E911 service provider and are technically feasible. Embarq is required under 251(c)(2)(C) to make the same arrangement available to Intrado Comm.¹²⁰ Embarq cannot use 251(c)(2)(B) to undermine its obligations under 251(c)(2)(C).¹²¹

Consistent with interconnection for 911/E911 traffic established between the ILECs when Embarq is the designated 911/E911 service provider, Embarq requires all competitive carriers serving end users in the Embarq geographic service area to bring their end users' 911 calls to the Embarq selective router serving the PSAP to which the 911 call is destined even if those carriers have established a POI at a different location for all other POTS traffic.¹²² Intrado Comm seeks interconnection arrangements with Embarq for the provision of 911/E911 services to PSAPs that are at parity with what Embarq provides itself and others when it is the designated 911/E911

¹¹⁹ 47 U.S.C. § 251(c)(2)(C).

¹²⁰ *Local Competition Order* ¶ 225.

¹²¹ See, e.g., *Quarantello v. Leroy*, 977 So.2d 648, 651-652 (2008) ("In arriving at its conclusion, the trial court apparently considered the first phrase meaningless or in isolation from the second. We are, however, loathe to render statutory language irrelevant in any context, and we discern no valid reason to do so here. Statutory interpretation is a 'holistic endeavor.'" (citing *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 371 (1988)); *Goode v. State*, 39 So. 461, 463 (1905) ("It is the general rule, in construing statutes, that construction is favored which gives effect to every clause and every part of the statute, thus producing a consistent and harmonious whole. A construction which would leave without effect any part of the language used should be rejected, if an interpretation can be found which will give it effect.").

¹²² Attachment 1 to Intrado Comm Petition for Arbitration at Section 55.1.3; see also Transcript at 379, lines 3-8 (Maples).

service provider.¹²³ Embarq has not demonstrated why the interconnection arrangements it imposes on CLECs or ILECs when Embarq is the designated 911/E911 service provider are not equally applicable when Intrado Comm is the designated 911/E911 service provider.¹²⁴

The FCC has determined that, if a particular method of interconnection is currently employed between two networks or has been used successfully in the past, a rebuttable presumption is created that such a method is technically feasible for substantially similar network architectures.¹²⁵ Further, successful interconnection or access at a particular point in a network, using particular facilities, is substantial evidence that interconnection or access is technically feasible at that point *or at substantially similar points in networks employing substantially similar facilities*.¹²⁶ In comparing networks, the FCC determined that the substantial similarity of network facilities may be evidenced by their adherence to the same interface or protocol standards.¹²⁷ Embarq bears the burden of demonstrating the technical infeasibility of a particular method of interconnection or access at any particular point.¹²⁸ Embarq has not made such a showing.

3. Intrado Comm's Proposal for Multiple POIs Is Consistent with Industry Recommendations and Guidelines

Intrado Comm has requested that Embarq establish interconnection to a minimum of two, geographically diverse POIs on Intrado Comm's network for reliability and redundancy

¹²³ Transcript at 162, lines 18-23 (Hicks).

¹²⁴ Hearing Exhibit No. 8, Deposition of Thomas Hicks at 14, line 19 to 15, line 15.

¹²⁵ *Local Competition Order* ¶ 554.

¹²⁶ *Local Competition Order* ¶ 204.

¹²⁷ *Local Competition Order* ¶ 204.

¹²⁸ *Local Competition Order* ¶ 554.

purposes, and to benefit public safety.¹²⁹ Implementation of Intrado Comm's proposal would ensure that 911 calls are diversely routed, which is consistent with the FCC's recommendations.¹³⁰ In addition, the FCC is currently reviewing whether it should require the deployment of redundant trunks to each selective router or require that multiple selective routers be able to route calls to each PSAP.¹³¹

Intrado Comm's proposal is also consistent with industry recommendations. The public benefit of the type of diversity and redundancy requested by Intrado Comm has been supported by the FCC's Network Reliability and Interoperability Council ("NRIC"), which found "[w]hen all 9-1-1 circuits are carried over a common interoffice facility route, the PSAP has increased exposure to possible service interruptions related to a single point of failure (e.g., cable cut). The ECOMM Team recommends diversification of 9-1-1 circuits over multiple, diverse interoffice facilities."¹³² Likewise, a National Emergency Number Association ("NENA") 911 Tutorial states:

9-1-1 systems are expected to function without interruption. However, expecting every network and PSAP component to work perfectly forever is unrealistic. Stuff happens – things break. Reliability, then, is achieved through diversity and redundancy. One method of achieving reliability is to build redundant, diversely routed trunk groups from each end office to its 9-1-1 tandem.

¹²⁹ Transcript at 178, lines 20-25 (Hicks); Hearing Exhibit No. 8, Deposition of Thomas Hicks at 21, lines 2-9.

¹³⁰ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 9 FCC Rcd 6170, ¶ 3, n.6 (1994) ("the American public depends on 911 services in its emergencies" and that reliability in the 911 network results from the deployment of diverse routing of interoffice facilities, multiple 911 tandem switch architectures, and diverse links for ALI database access).

¹³¹ *VoIP E911 Order* ¶ 59; see also Transcript at 101, line 21 to 102, line 2 (Hicks Direct).

¹³² Network Reliability Council Focus Group IV, Essential Communications During Emergencies Team Report (Jan. 12, 1996), available at <http://www.nric.org/pubs/nric2/fg4/nrcfinal.pdf>; see also Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 27.

Each trunk group should be large enough to carry the entire traffic load for that end office.¹³³

Thus, Intrado Comm's proposed language implements industry best practices for diversity and redundancy.

4. Section 253(b) of the Act Gives the Commission the Authority to Adopt Intrado Comm's Proposed Arrangements

Section 253(b) of the Act gives the Commission authority to adopt "requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers."¹³⁴ This statutory provision "set[s] aside a large regulatory territory for State authority" and gives the Commission ample support for adoption of Intrado Comm's proposals, which serve to protect the public safety and welfare and the rights of consumers.¹³⁵ Section 253(b) gives the Commission "broad regulatory authority to achieve [these] public interest objectives,"¹³⁶ and Intrado Comm's proposed physical architecture arrangements meet the objectives set forth in the Act.¹³⁷

¹³³ NENA 9-1-1 Tutorial at 13 (Jan. 19, 2000), available at <http://www.nena.org/florida/Directory/911Tutorial%20Study%20Guide.pdf>; see also Transcript at 92, lines 13-17 (Hicks Direct).

¹³⁴ 47 U.S.C. § 253(b).

¹³⁵ *City of Abilene, Texas v. FCC*, 164 F.3d 49, 53 (D.C. Cir. 1999); see also Transcript at 173, lines 20-23 (Hicks) ("public safety communications is important enough and that the state has the authority to make determinations based on what's in the best interest of public safety overall").

¹³⁶ *Cheyenne River Sioux Tribe Telephone Authority and US WEST Communications, Inc.; Joint Petition for Expedited Ruling Preempting South Dakota Law*, 17 FCC Rcd 16916, ¶ 29 (2002).

¹³⁷ Transcript at 163, lines 10-17 (Hicks); see also Hearing Exhibit No. 8, Deposition of Thomas Hicks at 23, line 21 ("Absolutely public interest has a role in this criteria.").

B. Line Attribute Routing Is Technically Feasible and Provides the Most Reliable and Robust 911/E911 Network

Intrado Comm's witnesses demonstrated that line attribute routing is technically feasible, and that similar processes are in use today for the routing of long distance calls or mapping wireless calls to tax codes.¹³⁸ Under the FCC's rules, interconnection and access requests shall be deemed technically feasible absent technical or operational concerns that prevent fulfillment of the requests, and the determination of technical feasibility does not include consideration of economic, accounting, billing, space, or site concerns.¹³⁹ Embarq has not demonstrated, by clear and convincing evidence, that line attribute routing is not technically feasible or that "specific and significant adverse impacts" would result from Intrado Comm's requested interconnection arrangement.¹⁴⁰ The FCC has determined that the ILEC, not the competitor, has the burden to prove technical infeasibility to the relevant state commission.¹⁴¹

Embarq has not demonstrated that it is technically infeasible to utilize line attribute routing. Line attribute routing would not require Embarq to create any new information because the process is based on the Master Street Address Guide ("MSAG"), which Embarq would be required to use to get the information necessary to "attribute" the appropriate PSAP to the customer's subscriber line that would allow for the trunking of the 911 call to the relevant 911/E911 network serving the PSAP.¹⁴² The process is similar to that used to establish

¹³⁸ Transcript at 213, lines 1-6 (Melcher Rebuttal); Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 25.

¹³⁹ 47 C.F.R. § 51.5 (defining technical feasibility).

¹⁴⁰ *Local Competition Order* ¶¶ 198, 203.

¹⁴¹ *Local Competition Order* ¶ 198; 47 C.F.R. § 51.5.

¹⁴² Transcript at 192, lines 17-23 (Hicks).

presubscribed interexchange carriers or to determine the appropriate tax jurisdiction for wireless calls.¹⁴³

Even if Embarq produced sufficient evidence to support its claims that line attribute routing would require it to modify its network, such evidence does not affect the analysis of technical feasibility. Under the FCC's requirements, Embarq is obligated to make the requisite changes in its network and operational practices that will accommodate the interconnection of competing local exchange networks and the mutual exchange of traffic between those networks.¹⁴⁴ The FCC has stated that incumbent carriers like Embarq are required to adapt their facilities to interconnection or use by other carriers, and an ILEC must accept the novel use of, and modification to, its network facilities to accommodate the interconnector.¹⁴⁵ The FCC recognized that ILEC networks were not designed to accommodate third party interconnection, and the purposes of the Act would be frustrated if ILECs were not required, at least to some extent, to adapt their facilities.¹⁴⁶

Intrado Comm's witnesses also confirmed that line attribute routing provides the most reliable and redundant 911/E911 network.¹⁴⁷ Switching via Embarq's selective router is no longer necessary when Intrado Comm is the designated provider,¹⁴⁸ and using another stage of

¹⁴³ Transcript at 213, lines 1-6 (Melcher Rebuttal).

¹⁴⁴ Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 5; Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 54.

¹⁴⁵ *Local Competition Order* ¶ 202.

¹⁴⁶ *Local Competition Order* ¶ 202; *see also* Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 5.

¹⁴⁷ Transcript at 93 (Hicks Direct); Hearing Exhibit No. 8, Deposition of Thomas Hicks at 53, lines 1-10.

¹⁴⁸ Hearing Exhibit No. 8, Deposition of Thomas Hicks at 54, lines 9-17.

switching in the call flow process introduces the possibility of additional points of failure.¹⁴⁹

Moreover, Embarq's proposal to use a common trunk group for all 911/E911 service traffic destined for Intrado Comm's network is inconsistent with NENA recommendations.¹⁵⁰ The use of common transport trunk groups for all end office traffic makes it impossible for a PSAP served by Intrado Comm to determine the originating carrier's end office. Industry recommendations, therefore, call for identifiable end office trunk groups for default routing.¹⁵¹ This configuration readily assists both the 911 network provider and the PSAP in quickly troubleshooting 911 service problems.¹⁵²

It is likely for these same reasons that Embarq itself imposes certain requirements on competitors seeking to terminate traffic on Embarq's 911 network.¹⁵³ Indeed, while Embarq claims that Intrado Comm's proposal would dictate how Embarq engineers its network,¹⁵⁴ Embarq imposes similar requirements on competitors when it is the designated 911/E911 service provider. For example, Embarq's template interconnection agreement states that "[s]eparate

¹⁴⁹ Transcript at 92 (Hicks Direct).

¹⁵⁰ Transcript at 92, lines 13-16 (Hicks Direct); *see also* Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 27; Hearing Exhibit No. 4, Intrado Comm Response to Staff Production of Documents Request 8.

¹⁵¹ *See, e.g.*, NENA Technical Information Document on Network Quality Assurance, NENA TID 03-501 at 11-12 (revised July 11, 2003) ("Serving End Office to E9-1-1 Control Office Switched Message Trunks must be route diverse. There should be at least two trunks from each central office to the E9-1-1 Control Office. A pair of diverse circuits may be assigned on a fiber ring system or a fiber system with diversely routed protection."), *available at* http://www.nena.org/media/File/03-501_20030711.pdf; NENA Standard for Enhanced 9-1-1 (E9-1-1) Default Routing Assignments and Functions, NENA 03-008 at 9 (Jan. 19, 2008) ("It must be recognized that 'default call routing' by definition may result in having some emergency calls reach a PSAP not directly responsible for the subscriber's location. Local authorities, E9-1-1 System Service Providers and carriers should ensure that default call routing impacts are minimized through the appropriate association of trunk groups with defined geographic areas."), *available at* http://www.nena.org/media/File/03-008_20080119.pdf

¹⁵² Transcript at 148, lines 19-20 (Hicks Direct).

¹⁵³ Hearing Exhibit No. 5, Embarq Response to Staff Interrogatory 14 ("Embarq prefers direct interconnection arrangements").

¹⁵⁴ Hearing Exhibit No. 7, Deposition of Mike Maples at 36, line 20-23.

trunks will be utilized for connecting CLEC's switch to each 911/E911 tandem."¹⁵⁵ Thus, given that Embarq's requirements for competitors connecting to its network are essentially no different than what Intrado Comm seeks here,¹⁵⁶ Intrado Comm's proposed language should be adopted.

C. Language Indicating that the Parties Will Use One-Way Trunks and Two-Way Trunks for Certain Types of Traffic Is Appropriate for a Section 251(c) Interconnection Agreement

Although the law gives competitors like Intrado Comm the right to determine whether one-way or two-way trunking should be used,¹⁵⁷ Intrado Comm is not opposed to the use of one-way trunking when using such trunking is technically feasible and would result in an efficient, reliable, and redundant interconnection arrangement between the Parties' networks.¹⁵⁸ For example, Intrado Comm's proposed language would require the Parties to use one-way trunking for the interconnection of the Parties' 911/E911 networks.¹⁵⁹ In contrast, Intrado Comm proposes the use of two-way trunks for inter-selective router trunking that is established between the Parties' selective routers.¹⁶⁰

The Parties appear to be in general agreement with respect to the use of one-way versus two-way trunking to interconnect their 911/E911 networks. Instead, their primary disagreement concerns whether Intrado Comm's proposed language should be included in a Section 251(c)

¹⁵⁵ Intrado Comm Petition for Arbitration, Attachment 1 at Section 55.1.3.

¹⁵⁶ Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 61.

¹⁵⁷ 47 C.F.R. § 51.305; Docket No. 000828-TP *Petition of Sprint Communications Company Limited Partnership for Arbitration of Certain Unresolved Terms and Conditions of a Proposed Renewal of Current Interconnection Agreement with BellSouth Telecommunications, Inc.*, Order No. PSC-01-1095-FOF-TP, Final Order on Arbitration (May 8, 2001) (subsequent history omitted) (determining that ILECs are required to provide one-way or two-way trunking to CLECs upon the CLEC's request subject only to technical feasibility)

¹⁵⁸ Transcript at 55, lines 16-22 (Clugy Rebuttal).

¹⁵⁹ Attachment 1 § 55.1.3.

¹⁶⁰ Attachment 1 § 55.1.4.

interconnection agreement and whether Intrado Comm may prohibit Embarq from engaging in unnecessary switching prior to delivering 911/E911 service calls to Intrado Comm's network.¹⁶¹ As discussed in more detail above, contract provisions addressing Embarq's interconnection and routing of 911/E911 service traffic to Intrado Comm's network are appropriate for inclusion in a Section 251(c) interconnection agreement. These types of provisions are directly relevant to the Parties' mutual exchange of traffic.¹⁶² And for the reasons discussed above, Embarq should not be permitted to engage in an additional, unnecessary stage of switching prior to delivering 911/E911 service calls to Intrado Comm.¹⁶³ Accordingly, Intrado Comm's proposed language should be adopted.

III. INTER-SELECTIVE ROUTER TRUNKING FALLS WITHIN SECTION 251(c), AND WOULD PUT INTRADO COMM ON EQUAL FOOTING WITH OTHER 911/E911 SERVICE PROVIDERS IN FLORIDA (ISSUE 4)

Inter-selective router trunking allows emergency calls to be transferred between selective routers and the PSAPs connected to those selective routers while retaining the critical access to the number and location information associated with the emergency call.¹⁶⁴ This type of interoperability between 911/E911 networks allows 911/E911 calls to be transferred among carriers to ensure misdirected emergency calls are transferred to the appropriate PSAP while still retaining access to the critical caller location information (*i.e.*, ALI) associated with the call.¹⁶⁵ If the call is required to be re-routed over the PSTN, the caller's ANI and ALI is lost.

¹⁶¹ Transcript at 65, line 19 to 66, line 2 (Clugy).

¹⁶² Transcript at 56, line 18 to 57, line 6 (Clugy Rebuttal).

¹⁶³ See *supra* Section II.B; see also Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 29.

¹⁶⁴ Transcript at 98-99 (Hicks Direct).

¹⁶⁵ Transcript at 98-99 (Hicks Direct).

Establishment of inter-selective router trunking ensures that PSAPs are able to communicate with each other and more importantly, that misdirected calls can be quickly and efficiently routed to the appropriate PSAP. For this reason, Intrado Comm requests that the Parties adopt arrangements to enable access to ALI when performing call transfers via inter-selective router trunking.¹⁶⁶ The transfer of ALI information is critical for emergency services personnel to locate the 911 caller, especially for wireless or VoIP calls, or even wireline calls where the caller cannot speak.¹⁶⁷

There is no dispute between the Parties with respect to Intrado Comm's proposed language. Rather, Embarq disputes only whether language regarding inter-selective router trunking is appropriate for a Section 251(c) interconnection agreement. As discussed above, the Parties' Section 251(c) interconnection agreement addresses the mutual exchange of traffic between the networks of a CLEC and an ILEC. The terms and conditions regarding inter-selective router trunking are necessary to effectuate this mutual exchange of traffic. Language regarding inter-selective router trunking and call transfer with ALI is also necessary to ensure interoperability between the Parties' networks as contemplated by Section 251(c).¹⁶⁸

¹⁶⁶ Intrado Comm strongly supports the involvement of the county or PSAP in defining 911 call routing requirements, such as alternate routing, back up routing, default routing, night transfer routing, call transfer routes, etc., with its designated 911/E911 service provider. There is no need, however, to include a provision in the interconnection agreement that requires the Parties to obtain a separate, formal agreement with a Florida county or PSAP as a prerequisite to deploying inter-selective router trunking. The interconnection agreement should contain the framework for interconnection and interoperability of the Parties' networks to ensure inter-selective router capabilities can be provisioned once requested by an Florida county or PSAP. *See generally* Transcript at 100 (Hicks Direct).

¹⁶⁷ Transcript at 129, lines 8-11 (Hicks Rebuttal).

¹⁶⁸ 47 U.S.C. § 251(c)(5).

The interoperability currently available to ILECs providing 911/E911 services must be made available to Intrado Comm when it offers a competing 911/E911 service offering.¹⁶⁹ Interoperability, such as that contemplated by Intrado Comm's proposed language, falls squarely within the realm of Section 251(c). Section 251(c)(5) of the Act requires ILECs like Embarq to provide public notice of changes in their network "that would affect the interoperability of those facilities and networks."¹⁷⁰ The importance of interoperability between competing networks is highlighted by the FCC's rules that ILECs must provide public notice of any changes that "[w]ill affect the [I]LEC's interoperability with other service providers."¹⁷¹ For the purposes of Section 251(c)(5) and its implementing rules, the FCC defined "interoperability" as "the ability of two or more facilities, or networks, to be connected, to exchange information, and to use the information that has been exchanged."¹⁷² The FCC determined "that the concepts of seamlessness and transparency are already adequately incorporated into" its adopted definition and thus a specific reference to these concepts in the definition was not necessary.¹⁷³

Embarq admits that it has inter-selective router arrangements in place today with other incumbent providers.¹⁷⁴ Intrado Comm seeks to implement similar arrangements to those Embarq already has in place with other 911/E911 service providers, and within its own network. The interoperability currently available between ILECs providing 911/E911 services must be

¹⁶⁹ Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 54.

¹⁷⁰ 47 U.S.C. § 251(c)(5).

¹⁷¹ 47 C.F.R. § 51.325(a)(2).

¹⁷² *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392, ¶ 178 (1996) ("FCC Interoperability Order").

¹⁷³ *FCC Interoperability Order* ¶ 178.

¹⁷⁴ Transcript at 264, lines 1-4 (Maples Direct).

made available to Intrado Comm when it offers a competing 911/E911 service product. The FCC has specifically found that a new entrant like Intrado Comm cannot effectively compete when the new entrant cannot obtain interconnection on terms that are as favorable as the ILEC offers to neighboring ILECs.¹⁷⁵ Intrado Comm, its public safety customers, and Florida 911 callers would be at a disadvantage without the interoperability provided by inter-selective router trunking. Moreover, it would be discrimination for Embarq not to provide Intrado Comm interconnection that is “equal in quality” to the interconnection arrangements Embarq provides to itself and other carriers.¹⁷⁶ Accordingly, Intrado Comm’s proposed language should be adopted for inclusion in the Parties’ Section 251(c) interconnection agreement.¹⁷⁷

IV. THE TERM “DESIGNATED” ACCURATELY IDENTIFIES THE PARTY SERVING THE PSAP AND SHOULD BE USED IN THE PARTIES’ INTERCONNECTION AGREEMENT (ISSUE 13)

In a competitive 911/E911 service market, a Florida PSAP or public safety agency has the right to choose or “designate” the entity from which it seeks to purchase 911/E911 services.¹⁷⁸ The term “designated” refers to the certificated telecommunications provider that has been chosen by the Florida public safety agency to be the provider of 911/E911 services to a PSAP. Intrado Comm has therefore proposed interconnection agreement language using the term “designated” rather than Embarq’s preferred term of “primary.”¹⁷⁹ Intrado Comm objects to the use of the term “primary” because it implies there is a “secondary” provider, and use of

¹⁷⁵ *Local Competition Order* ¶ 168.

¹⁷⁶ 47 U.S.C. § 251(c)(2)(C).

¹⁷⁷ Attachment 1 § 55.1.4, 55.5.

¹⁷⁸ Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 6(c).

¹⁷⁹ Attachment 1 §§ 75.2.3, 75.2.4.

those terms may give Embarq the ability to charge public safety for services Embarq no longer provides.¹⁸⁰

The concept of “designation” is similar to presubscription.¹⁸¹ A customer picks a carrier to provide its local, long distance, and in some states, intrastate toll services. Whether a public safety agency presubscribes or “designates” a single competitive 911/E911 service provider or two (*i.e.*, one provider for wireline 911/E911 calls and another provider for wireless 911/E911 calls), there is no “secondary” 911/E911 service provider. If the county does select multiple providers for different types of 911/E911 services, each provider would be the “designated” provider for that type of 911/E911 service.¹⁸²

Embarq has stated it will continue to charge public safety in situations where Embarq is acting as a “secondary” provider.¹⁸³ It is unclear, however, what services Embarq would continue to provide when Intrado Comm is the designated 911/E911 service provider. For example, when Intrado Comm is the designated 911/E911 service provider, Embarq will no longer provide selective routing services, ALI services, or database management services.¹⁸⁴ Selective routing involves termination of a call to a PSAP. Definitions should not be permitted to be used to justify charges to Florida public safety agencies for services Embarq no longer provides.¹⁸⁵ Intrado Comm’s language should be adopted.

¹⁸⁰ Transcript at 126, lines 14-21 (Hicks Rebuttal); Hearing Exhibit No. 8, Deposition of Thomas Hicks at 46, line 22 to 47, line 1.

¹⁸¹ Transcript at 126, lines 4-11 (Hicks Rebuttal).

¹⁸² The county or PSAP’s choice of carrier should not be confused with the terminology of primary and secondary PSAPs, which denotes which PSAP should receive a 911 call in the first instance.

¹⁸³ Transcript at 264, lines 10-13 (Maples Direct).

¹⁸⁴ Hearing Exhibit No. 3, Intrado Comm Response to Staff Interrogatory 53.

¹⁸⁵ *See, e.g., United Artists Payphone Corp. v. New York Telephone Co. and American Telephone and*

V. INTRADO COMM'S PROPOSED DEFINITION OF "END USER" COMPORTS WITH LAW AND SHOULD BE ADOPTED (ISSUE 11)

The term "End User" is used to denote the individuals or entities that will be purchasing service from either of the Parties.¹⁸⁶ Embarq's template referred to "end users" but contained no definition for the term. There has been much litigation over the definition of "end user" over the past several years.¹⁸⁷ This prompted Intrado Comm to provide a definition for the Parties' agreement to minimize potential disputes later.

Telegraph Co., 8 FCC Rcd 5563, ¶ 5 (1993) ("*United Artists*") (determining that only customers that order service are responsible for the charges associated with that service); *Atlantic Telco, Inc. and Tel. & Tel. Payphones, Inc.*, Order, 8 FCC Rcd 8119, ¶ 6 (1993) (same); Docket No. 080089-TP, *Petition for Declaratory Statement Regarding Local Exchange Telecommunications Network Emergency 911 Service*, by *Intrado Communications Inc.*, Order No. PSC-08-0374-DS-TP (June 4, 2008) ("The law is clear that telecommunications companies may not charge for services they do not provide. Section 364.604(2) provides that '[a] customer shall not be liable for any charges for telecommunications or information services that the customer did not order or that were not provided to the customer.'").

¹⁸⁶ Transcript at 52, lines 5-7 (Clugy Direct).

¹⁸⁷ See, e.g., Case No. 06-1257-TP-ARB, *Petition of Sprint Communications Company L.P. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with The Chillicothe Telephone Company*, Arbitration Award (Feb. 28, 2007); Cases 05-C-0170, 05-C-0183, *Petition of Sprint Communications Company L.P., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Inter-carrier Agreement with Independent Companies, et al.*, Order Resolving Arbitration Issues (N.Y.P.S.C. May 24, 2005), Order Denying Rehearing (N.Y.P.S.C. Aug. 24, 2005); upheld by *Berkshire Telephone Corp., et al. v. Sprint Communications Company L.P.*, 2006 U.S. Dist. LEXIS 78924 (W.D.N.Y. Oct. 30, 2006); Cause No. 43052-INT-01 (consolidated with 43053-INT-01 and 43055-INT-01), *Sprint Communications Company L.P.'s Petition for Arbitration pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and the Applicable State Laws for Rates, Terms and Conditions of Interconnection with Ligonier Telephone Company, Inc.*, Order (I.U.R.C. Sept. 6, 2006); Docket No. 05B-210T, *Level 3 Communications, LLC's Petition for Arbitration pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and the Applicable State Laws for Rates, Terms, and Conditions of Interconnection with Qwest Corporation*, Initial Commission Decision (Colo. P.U.C. Mar. 6, 2007); Case No. U-13758, *Michigan Bell Telephone Company, d/b/a SBC Michigan, for Arbitration of Interconnection of Rates, Terms, Conditions, and Related Arrangements with MCIMetro Access Transmission Services, LLC, pursuant to Section 252(b) of the Telecommunications Act of 1996*, Opinion and Order (Mich. P.S.C. Aug. 18, 2003); Application No. C-3429, *Sprint Communications Company L.P., Overland Park, Kansas, Petition for Arbitration under the Telecommunications Act, of Certain Issues Associated with the Proposed Interconnection Agreement between Sprint and Southeast Nebraska Telephone Company, Falls City*, Findings and Conclusions (Neb. P.U.C. Sept. 13, 2005), rev'd *Sprint Communications Company L.P. v. Nebraska Public Service Commission, et al.*, 2007 WL 2682181 (D. Neb. 2007); 05-MA-138, *Petition of MCIMetro Access Transmission Services, LLC and MCI WorldCom Communications, Inc. for Arbitration of Interconnection Terms and Conditions and Related Arrangements with Wisconsin Bell, Inc. d/b/a SBC Wisconsin pursuant to 47 U.S.C. § 252(b)*, Arbitration Award (Wisc. P.U.C. May 16, 2006).

Specifically, Intrado Comm proposed the following definition of “End User” be included in the Parties’ interconnection agreement:

“End User” means the individual that subscribes to (subscriber of record) and/or uses the Telecommunications services provided by Embarq or Intrado Comm.¹⁸⁸

This definition encompasses both Intrado Comm’s current PSAP end user customers as well as other customers Intrado Comm may serve in the future.¹⁸⁹ As a competitive local exchange carrier Intrado Comm is entitled to UNEs where it meets the criteria for ordering UNEs.¹⁹⁰

There is no record evidence to support that Intrado Comm has proposed this definition to unlawfully obtain UNEs as alluded to by Embarq.¹⁹¹ Intrado Comm’s proposed interconnection agreement definition reflects the services Intrado Comm offers today and may offer in the future. Purchasers of those services are appropriately classified as end users. Intrado Comm’s definition should be adopted.

The Commission’s rules define “subscriber” or “customer” as “any person, firm, partnership, corporation, municipality, cooperative organization, or governmental agency supplied with communication service by a telecommunications company.”¹⁹² This definition is similar to the definition of “End User” proposed by Intrado Comm for the Parties’

¹⁸⁸ Attachment 1 § 1.54.

¹⁸⁹ Transcript at 52, lines 5-7 (Clugy Direct).

¹⁹⁰ As long as Intrado Comm is offering an “eligible” telecommunications service (*i.e.*, not exclusively long distance or mobile wireless service), it may obtain a network element as a UNE. It is not relevant how the ILEC would or does use the facilities. Rather, the relevant inquiry is “whether the requesting carrier intends to provide a telecommunications service over that facility.” *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, 20 FCC Rcd 14853, ¶ 127 (2005), *aff’d Time Warner Telecom, Inc. v. FCC*, WL 2993044 (3d Cir. Oct. 16, 2007).

¹⁹¹ Transcript at 299, lines 15-22 (Maples Direct); Transcript at 369, lines 7-10 (Maples).

¹⁹² 25-4.003, F.A.C.

interconnection agreement. There is no reason why the term “End User” should be defined differently in the Parties’ interconnection agreement.

Intrado Comm’s proposed definition also encompasses other entities that may appropriately be considered “End Users” under federal law. Like the Commission, the FCC has long recognized that wholesale services are included in the definition of “telecommunications service” and that the term “telecommunications service” was not intended to create a retail/wholesale distinction.¹⁹³ A provider of wholesale telecommunications service is a telecommunications carrier and is entitled to interconnection under Section 251.¹⁹⁴ While the FCC did not directly address Section 251(c) rights in the *Time Warner Order* because the issue was not properly before it,¹⁹⁵ there is no distinction in the Act or the FCC’s rulings between a “telecommunications carrier” for purposes of Sections 251(a) and (b) or a “telecommunications carrier” for purposes of Section 251(c). Intrado Comm’s definition of “End User” appropriately reflects these principles.

Further, contrary to Embarq’s claims,¹⁹⁶ entities like Vonage are properly classified as end users because they purchase service from telecommunications carriers like other businesses

¹⁹³ *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd 21905, ¶ 264 (1996).

¹⁹⁴ *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, 22 FCC Rcd 3513, ¶ 15 (2007) (“*Time Warner Order*”).

¹⁹⁵ *Time Warner Order* at n.18. The petition at issue in the *Time Warner Order* was filed to address interconnection with rural ILECs who were exempt from Section 251(c) obligations pursuant to Section 251(f). These carriers were also trying to claim exemption from any 251 requirements. Time Warner’s Petition only sought a declaratory ruling that the rural ILECs were subject to Sections 251(a) and (b) because the ILECs were exempt from 251(c).

¹⁹⁶ Transcript at 298, line 20 to 299, line 2 (Maples Direct).

or persons that obtain local exchange services from a local exchange carrier.¹⁹⁷ Vonage and other interconnected VoIP service providers have not been classified as carriers by the FCC and have long been treated as “end users” for regulatory purposes.¹⁹⁸ Consistent with the FCC’s rulings, Intrado Comm’s proposed definition of “End User” reflects the concept that a wholesale purchaser or a carrier could be considered an “end user” of one of the Parties. Intrado Comm’s proposed definition should therefore be adopted.

VI. INTRADO COMM’S LANGUAGE ON THIRD-PARTY AUDITS SHOULD BE ADOPTED (ISSUE 14)

The Parties have agreed that audits may be required in certain situations, but the Parties disagree over how such audits may be conducted. Intrado Comm has modified Embarq’s proposed language to require any audit to be conducted by an independent, third-party auditor rather than the in-house personnel of the Parties.¹⁹⁹ Audits are costly and force a company to direct precious resources to the audit task and away from the business plan. Furthermore, audit power can be easily abused and must be applied only in limited circumstances, especially when the Parties involved do not hold equal positions in the emerging competitive market. Such audits can also be used to stifle competition by creating financial burdens on new entrants and distracting resources to the audit. Where Parties are direct competitors, as in the instant

¹⁹⁷ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 16 FCC Rcd 9151, ¶ 11 (2001); *see also Amendments of Parts 60 of the Commission’s Rules Relating to Enhanced Service Providers*, 3 FCC Rcd 2631, nn.8, 53 (1988).

¹⁹⁸ *See, e.g., Universal Service Contribution Methodology*, 21 FCC Rcd 7518, ¶ 58 (2006) (“[W]e have not yet classified interconnected VoIP as either a telecommunications service or an information service. Because we have not yet made that classification, some interconnected VoIP providers may hold themselves out as telecommunications carriers, but others do not, considering themselves instead to be ‘end users.’ Carriers that provide telecommunications service inputs to the latter group of interconnected VoIP providers therefore have been reporting the resulting revenues as end-user revenues and including them in their [universal service] bases.”).

¹⁹⁹ Attachment 1 § 8.1.

situation, third-party independent auditors better ensure objective treatment.

Under the interconnection agreement, there is a continuum of remedies to address disputes between the Parties. The first is the dispute resolution provisions, which allow both Parties the ability to negotiate disputes before seeking assistance from the Commission or a court if applicable.²⁰⁰ The second is the ability for the Parties to conduct “Examinations,” which allows either Party to make requests for information relating to specific billing discrepancies.²⁰¹ Finally, there is the full-blown, comprehensive audit.²⁰² The interconnection agreement limits a Party’s ability to request an audit to no more than “once in any twelve (12) month period.”²⁰³ An examination, on the other hand, may be performed by either Party “as it deems necessary, with the assistance of the other Party, which will not be unreasonably withheld.”²⁰⁴ With the continuum of alternatives available to either Party under the interconnection agreement (dispute resolution, examinations, and then audits), the need for an independent third-party auditor would likely be rare,²⁰⁵ thus negating Embarq’s claim that third-party audits would present undue costs.²⁰⁶

The FCC and this Commission routinely mandate the use of independent auditors for telecommunications matters, and specifically carrier-to-carrier relationships.²⁰⁷ The FCC and

²⁰⁰ Attachment 1 to Intrado Comm Petition for Arbitration at Section 25.

²⁰¹ Attachment 1 § 8.1; *see also* Hearing Exhibit No. 10, Deposition of Cynthia Clugy at 13, lines 17-24.

²⁰² Attachment 1 § 8.1.

²⁰³ Attachment 1 § 8.1; *see also* Hearing Exhibit No. 10, Deposition of Cynthia Clugy at 15, lines 8-17.

²⁰⁴ Attachment 1 § 8.1; *see also* Hearing Exhibit No. 10, Deposition of Cynthia Clugy at 14, lines 2-9.

²⁰⁵ Transcript at 64, lines 1-8 (Clugy).

²⁰⁶ Transcript at 36, lines 2-3 (Hart Direct).

²⁰⁷ *See, e.g.*, Docket No. 040130-TP, *Joint Petition by NewSouth Communications Corp. et al. for Arbitration of Certain Issues Arising in Negotiation of Interconnection Agreement with BellSouth Telecommunications, Inc.*,

the Commission have often recognized the expertise of various auditing firms to conduct telecommunications-related audits.²⁰⁸ Further, use of independent, third party auditors is standard industry practice.²⁰⁹ Accordingly, Intrado Comm's proposed language should be adopted.

VII. PROVISIONS REGARDING INTRADO COMM'S ORDERING PROCESSES SHOULD BE INCLUDED IN THE SECTION 251(C) INTERCONNECTION AGREEMENT (ISSUE 5)

There is no dispute between the Parties with respect to Intrado Comm's proposed language. Rather, Embarq disputes only whether language regarding Intrado Comm's ordering process is appropriate for a Section 251(c) interconnection agreement. As discussed above, the Parties' Section 251(c) interconnection agreement addresses the mutual exchange of traffic

Order No. PSC-05-0975-FOF-TP (Oct. 11, 2005) (recognizing use of third-party auditors); 47 C.F.R. § 64.1320(c) (requiring audits of payphone compensation tracking systems by "an independent third party auditor"); *GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, 20 FCC Rcd 791, ¶ 2 (2005) (requiring the use of "an independent auditor to conduct audits on an annual basis regarding Verizon's compliance with the Merger Conditions and the sufficiency of Verizon's internal controls"); 47 C.F.R. § 54.717 ("The Administrator shall obtain and pay for an annual audit conducted by an independent auditor to examine its operations and books of account. . ."); *Section 272(b)(1)'s "Operate Independently" Requirement for Section 272 Affiliates*, 19 FCC Rcd 5102, ¶ 21 (2004) ("Section 272 audits are performed by independent auditors who review the BOCs' records, conduct interviews, and prepare audit reports."); *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978, ¶ 626 (2003) ("*Triennial Review Order*"), *aff'd in part, remanded in part, vacated in part, U.S. Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (subsequent history omitted) (requiring the use of independent third-party auditors if an ILEC challenges a competitor's eligibility for enhanced extended links).

²⁰⁸ See, e.g., *BellSouth Telecommunications, Inc. Apparent Liability for Forfeiture*, 19 FCC Rcd 5310 (2004) (recognizing that BellSouth used PricewaterhouseCoopers as its independent auditor for Section 271/272 purposes); Docket No. 040130-TP, *Joint Petition by NewSouth Communications Corp. et al. for Arbitration of Certain Issues Arising in Negotiation of Interconnection Agreement with BellSouth Telecommunications, Inc.*, Order No. PSC-05-0975-FOF-TP (Oct. 11, 2005) (recognizing Deloitte & Touche, BearingPoint, Ernst & Young, and PricewaterhouseCoopers as acceptable auditors for telecommunications matters).

²⁰⁹ Transcript at 63, lines 1-7 (Clugy Rebuttal); see also Hearing Exhibit No. 13 (providing examples of interconnection agreements with third-party audit provisions).

between their networks as required by the Act, and terms and conditions regarding how services will be ordered between the Parties is necessary to effectuate this mutual exchange of traffic.²¹⁰

Embarq's template interconnection agreement includes provisions setting forth the process for Intrado Comm to order services and facilities from Embarq, but does not address how Embarq will order services from Intrado Comm.²¹¹ As co-carriers exchanging 911/E911 service traffic with each other, both Parties will be purchasing services from the other.²¹² Thus each Party should be aware of the process to order services and facilities from the other. When a Florida public safety agency or PSAP selects Intrado Comm as its 911/E911 service provider, Embarq will need to utilize Intrado Comm's ordering processes to interconnect with Intrado Comm's network for termination of its end users' 911 calls. The ordering process proposed by Intrado Comm is similar to the Access Service Request ("ASR") process that was developed by ILECs and is routinely used in the industry today.²¹³ Intrado Comm's proposed language indicating that Embarq will comply with Intrado Comm's ordering process should therefore be included in the interconnection agreement.²¹⁴ This will ensure the necessary interoperability between the Parties' networks, which is essential to any interconnection arrangement.²¹⁵

²¹⁰ Hearing Exhibit No. 9, Deposition of Cynthia Clugy at 8, lines 1-5.

²¹¹ Attachment 1 § 72.14.

²¹² Transcript at 58, lines 18-21 (Clugy Rebuttal); Transcript at 66, lines 3-10 (Clugy).

²¹³ Transcript at 58, lines 5-8 (Clugy Rebuttal); *see also* Hearing Exhibit No. 10, Deposition of Cynthia Clugy at 11, lines 1-5 ("The standard type of things that occur in the industry today for provisioning of termination and port accesses on switches."); Hearing Exhibit No. 12 (providing example of Intrado Comm ordering process).

²¹⁴ Attachment 1 § 72.14.

²¹⁵ *FCC Interoperability Order* ¶ 178.

VIII. 911 SERVICE AND E911 SERVICE CALLS SHOULD BE INCLUDED IN THE TYPE OF TRAFFIC EXCHANGED OVER LOCAL INTERCONNECTION TRUNKS (ISSUE 7)

911/E911 service calls, whether originated on Intrado Comm's network or originated on Embarq's network, are like any other local telephone exchange traffic.²¹⁶ At this point in time, while Intrado Comm may not serve as the originating carrier for a person making a 911 call, Intrado Comm certainly is the terminating carrier for the 911 call, delivering it to the person who answers the call at the PSAP location. As explained above, this type of two-way call completion between Embarq and Intrado Comm is fundamentally no different than any other two-way communication occurring between two local carriers, one of which is the originating service provider and the other of which is the terminating carrier. There may be additional features and services that are also offered to the PSAP as the terminating customer, like ANI and ALI, but fundamentally the ANI feature is no different than any other terminating customer who subscribes to caller ID or other calling features. 911 and E911 service calls should therefore be included in the types of traffic exchanged between the Parties over local interconnection trunks even if the local interconnection trunks to be used are dedicated to 911 traffic.

IX. THE RATES PROPOSED BY INTRADO COMM ARE REASONABLE AND SHOULD BE INCLUDED IN A SECTION 251(c) INTERCONNECTION AGREEMENT (ISSUES 1(c) and 1(d))

There is no dispute between the Parties with respect to Intrado Comm's proposed language regarding the rates it will charge or the actual rates themselves.²¹⁷ Rather, Embarq disputes only whether language regarding Intrado Comm's rates when Intrado Comm is the

²¹⁶ Transcript at 60, lines 3-4 (Clugy Rebuttal).

²¹⁷ Hearing Exhibit No. 7, Deposition of Mike Maples at 32, line 15 to 33, line 5 ("With respect to pricing, I don't know that there's any real issue with respect to pricing that I'm aware of. . . they have provided a couple of port prices and things like that. . . I'm not sure that we have any dispute with those right now.").

designated 911/E911 service provider is appropriate for a Section 251(c) interconnection agreement. As discussed above, the Parties' Section 251(c) interconnection agreement addresses the mutual exchange of traffic between their networks as required by the Act.²¹⁸ Embarq is required to secure access to Intrado Comm's network when Intrado Comm serves as the designated 911/E911 service provider. Thus, terms and conditions regarding 911/E911 database access when Intrado Comm is the 911/E911 service provider are necessary to effectuate this mutual exchange of traffic.²¹⁹

Intrado Comm has proposed rates for access ports or "terminations" on its network that would be applied when Embarq terminates traffic on Intrado Comm's network that is destined for an Intrado Comm served PSAP.²²⁰ Unlike Embarq, Intrado Comm provides MSAG downloads without charge.²²¹ Intrado Comm's proposed charges are similar to the entrance facility or port charges imposed by Embarq on competitors for interconnection to Embarq's network,²²² and Embarq has not questioned these rates. Intrado Comm's proposed rates should therefore be adopted for inclusion in the interconnection agreement.²²³

²¹⁸ Cf. Hearing Exhibit No. 7, Deposition of Mike Maples at 37, lines 13-16 (acknowledging that the rates to be charged by CLECs are contained in a 251(c) interconnection agreement).

²¹⁹ Hearing Exhibit No. 7, Deposition of Mike Maples at 28, lines 5-6 ("We charge CLECs for port fees and we charge them for downloads of the MSAG and that sort of thing. So we would expect to pay Intrado those same types of fees."); *see also* Hearing Exhibit No. 5, Embarq Response to Staff Interrogatory 2(g).

²²⁰ Hearing Exhibit No. 33.

²²¹ Intrado Comm has determined that, at this time, it will not charge connecting carriers for MSAG downloads. Thus, Intrado Comm's proposed pricing schedule only contains charges for "ports" on Intrado Comm's network as contemplated by Embarq.

²²² Transcript at 146, lines 1-3 (Spence-Lenss Direct); *see also* Hearing Exhibit No. 7, Deposition of Mike Maples at 10, lines 12-13 ("We charge a 911 port fee, which is the access to the selective router").

²²³ Intrado Comm's proposed rates are set forth in Hearing Exhibit No. 33.

X. PROVISIONS GOVERNING DATABASE ACCESS WHEN INTRADO COMM IS THE DESIGNATED PROVIDER ARE APPROPRIATE FOR A SECTION 251(C) INTERCONNECTION AGREEMENT (ISSUE 6(b))

There is no dispute between the Parties with respect to Intrado Comm's proposed language. Rather, Embarq disputes only whether language regarding 911/E911 databases when Intrado Comm is the designated 911/E911 service provider is appropriate for a Section 251(c) interconnection agreement.²²⁴ The contract provisions in dispute under this issue address the Parties' access to each other's 911/E911 databases and the Parties' exchange of customer records or service order information ("SOI") when Intrado Comm is the designated provider of 911/E911 service. As discussed above, the Parties' Section 251(c) interconnection agreement addresses the mutual exchange of traffic between their networks as required by the Act. Terms and conditions regarding 911/E911 database access when Intrado Comm is the 911/E911 service provider are necessary to effectuate this mutual exchange of traffic and ensure all end user data is quickly and accurately uploaded into the relevant databases while maintaining the confidentiality of the data.²²⁵ Intrado Comm's proposed language should be included in the Parties' 251(c) interconnection agreement.²²⁶

²²⁴ Hearing Exhibit No. 7, Deposition of Mike Maples at 50, lines 14-16 ("the primary technical issues that were involved here have been resolved, so it is down to those, the 251(a), (c) issue").

²²⁵ Transcript at 59, lines 6-13 (Clugy Rebuttal); Transcript at 66, lines 11-22 (Clugy).

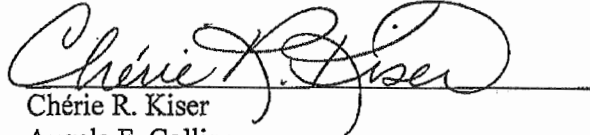
²²⁶ Attachment 1 §§ 75.2.7, 75.2.8.

CONCLUSION

For the foregoing reasons, Intrado Comm respectfully requests that the Commission adopt Intrado Comm's positions and proposed language as set forth herein and in Attachment 1.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Responses were served on the following parties by Electronic Mail and/or U.S. Mail on this 7th day of August, 2008.

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Attachment 1 – Intrado Comm Proposed Language

Issue #	Issue	ICA Reference	Intrado Comm Language	Embarq Language
<u>Issue 1(a)</u>	What service(s) does Intrado Comm currently provide or intend to provide in Florida?	N/A	N/A	N/A
<u>Issue 1(b)</u>	Of the services identified in 1(a), for which, if any, is AT&T required to offer interconnection under Section 251(c) of the Telecommunications Act of 1996?	N/A	N/A	N/A
<u>Issue 1(c)</u>	Of the services identified in 1(a), for which, if any should rates appear in the ICA?	Pricing Schedules	N/A	N/A
<u>Issue 1(d)</u>	For those services identified in 1(c), what are the appropriate rates?	Pricing Schedules	N/A	N/A
<u>Issue 2(a)</u>	What trunking and traffic routing arrangements should be used for the exchange of traffic when Intrado Comm is the Designated 911/E911 service provider?	55.1.3 55.4	NOTE, any “agreed upon” language is subject to 251(c) issue 55.1.3 One-way trunks shall be utilized for Local Interconnection of Embarq’s network to INTRADO COMM’s network for the purpose of emergency call routing applications where INTRADO COMM serves as the E911 Service provider and for Local Interconnection of INTRADO COMM’s network to Embarq’s Selective Routers or E911 Tandem Switches where Embarq serves as the E911 Service provider.	NOTE, any “agreed upon” language is subject to 251(c) issue 55.1.3 One-way trunks shall be utilized for Local Interconnection of Embarq’s network to INTRADO COMM’s network for the purpose of emergency call routing applications where INTRADO COMM serves as the E911 Service provider and for Local Interconnection of INTRADO COMM’s network to Embarq’s Selective Routers or E911 Tandem Switches where Embarq serves as the E911 Service provider.
<u>Issue 2(b)</u>	What trunking and traffic routing arrangements should be used for the exchange of traffic when Embarq is the designated 911/E911 service provider?		55.4 Interconnection of the Embarq Network to INTRADO COMM’s Network.	55.4 Interconnection of the Embarq Network to INTRADO COMM’s Network.

Attachment 1 – Intrado Comm Proposed Language

Issue #	Issue	ICA Reference	Intrado Comm Language	Embarq Language
			<p>55.4.1 In geographic areas in which INTRADO COMM has been designated as the E911 Selective Routing provider, Embarq will provide end office direct trunking to INTRADO COMM's network for the purpose of delivery of 911 Service and E911 Service traffic from Embarq's End-Users' emergency calls to PSAPs (End-Users) served by INTRADO COMM's Selective Routing system</p>	<p>55.4.1 In geographic areas in which INTRADO COMM has been designated as the E911 Selective Routing provider, Embarq will provide end office direct trunking to INTRADO COMM's network for the purpose of delivery of 911 Service and E911 Service traffic from Embarq's End-Users' emergency calls to PSAPs (End-Users) served by INTRADO COMM's Selective Routing system where Embarq's end office is <u>entirely served by a single PSAP.</u></p>
			<p>55.4.2 <u>Embarq may aggregate and/or transport traffic from its chosen location to a minimum of two (2) mutually agreed, geographically diverse POIs on the INTRADO COMM network.</u></p>	<p>N/A</p>
			<p>55.4.4 Embarq will order at mutually agreed-upon rates DS1 and DS0 terminations to INTRADO COMM's E911 network via the INTRADO COMM Access Service Request (ASR) process for each end office trunk group established for use by Embarq's End-Users in accordance with INTRADO COMM's Pricing Schedule attached to the Agreement. Embarq may engineer terminations such that terminations may be aggregated in an efficient manner, but will not selectively route the end office traffic before termination to the INTRADO COMM Network, <u>unless in</u></p>	<p>55.4.4 Embarq will order at mutually agreed upon rates DS1 and DS0 terminations to INTRADO COMM's E911 network via the INTRADO COMM Access Service Request (ASR) process for each end office trunk group established for use by Embarq's End-Users in accordance with INTRADO COMM's Pricing Schedule attached to the Agreement. Embarq may engineer terminations such that terminations may be aggregated in an efficient manner, but will not selectively route the end office traffic before termination to the INTRADO COMM Network, where Embarq's end office is entirely served by</p>

Attachment 1 – Intrado Comm Proposed Language

Issue #	Issue	ICA Reference	Intrado Comm Language	Embarq Language
			<p>accordance with <u>split rate area exceptions noted in Section 55.4.7.</u></p> <p>55.4.6 Embarq shall utilize Signaling System 7 (SS7) signaling protocol for DSO terminations to INTRADO COMM's network, where Embarq has SS7 deployed.</p> <p>55.4.7 Embarq shall not deliver its End-Users' 911 Service or E911 Service calls originating outside of INTRADO COMM's E9-1-1 serving area to INTRADO COMM's network except as noted below.</p> <p>55.4.7.1 Split Wire Center Call Delivery Exception – Where it is technically infeasible for Embarq to segregate its End-Users' 911 Service or E911 Service call traffic associated with an End Office Wire Center and where an End Office Wire Center serves End-Users both within and outside of the INTRADO COMM's network serving area, Embarq shall work cooperatively with INTRADO COMM and the affected E911 Authorities (i) to establish call routing and/or call handoff arrangements, (ii) to establish which E9-1-1 Service provider will sort the 911 Service and E911 Service traffic offered over direct trunking from the split End Office Wire Center to determine which calls must be handed-off, and (iii) to establish which</p>	<p>a <u>single PSAP.</u></p> <p>55.4.6 Embarq shall utilize Signaling System 7 (SS7) signaling protocol for DSO terminations to INTRADO COMM's network, where Embarq has SS7 deployed.</p> <p>55.4.7 Embarq shall not deliver its End-Users' 911 Service or E911 Service calls originating outside of INTRADO COMM's E9-1-1 serving area to INTRADO COMM's network except as noted below.</p> <p>55.4.7.1 Split Wire Center Call Delivery Exception – Where Embarq does not segregate is technically incapable of segregating End-Users' 911 Service or E911 Service call traffic associated with a Wire Center and where the Wire Center serves End-Users both within and outside of the INTRADO COMM network serving area, Embarq shall work cooperatively with INTRADO COMM, other PSAP service providers, and the affected E911 Authorities (i) to establish call routing and/or call handoff arrangements, (ii) to establish which E9-1-1 Service provider will serve as the "Primary" Selective Routing provider for direct trunking from the split Wire Center, and (iii) to establish which E91-1</p>

Attachment 1 – Intrado Comm Proposed Language

Issue #	Issue	ICA Reference	Intrado Comm Language	Embarq Language
			<p>E91-1 service provider will be receiving a call hand-off from the 911/E911 Service provider performing the call sorting function.</p> <p><u>55.4.7.2 Split Wire Center Call Delivery Cost - Embarq shall be responsible for any and all costs incurred by INTRADO COMM resulting from Embarq's inability to segregate its End-Users' 911 Service or E911 Service call traffic at an End Office level and resulting in call hand-offs from INTRADO COMM's network to another E9-1-1 service provider's network.</u></p> <p><u>55.4.7.3 Split Wire Center "Partially Deployed" 911 Exception - Where Embarq is technically incapable of segregating its End-User 911 Service or E911 Service call traffic associated with a specific Wire Center and where the Wire Center serves End-Users that are within INTRADO COMM's network serving area and E911 Authorities that have not deployed 911 Services or E911 Services, 911 Service call traffic for the entire End Office shall be delivered to INTRADO COMM for call delivery to the appropriate PSAP.</u></p>	<p>service provider will serve as the "Secondary" Selective Routing provider receiving a call hand-off from the Primary Selective Routing provider.</p> <p>N/A</p> <p><u>55.4.7.3 Split Wire Center "Partially Deployed" 911 Exception - Where Embarq does not segregate its technically incapable of segregating End-User 911 Service or E911 Service call traffic associated with a specific Wire Center and where the Wire Center serves End-Users that are within INTRADO COMM's network serving area and E911 Authorities that have not deployed 911 Services or E911 Services, 911 Service or E911 Service call traffic for the entire End Office shall be delivered to INTRADO COMM for call delivery to the appropriate PSAP.</u></p>

Attachment 1 – Intrado Comm Proposed Language

Issue #	Issue	ICA Reference	Intrado Comm Language	Embarq Language
<u>Issue 3(a)</u>	What terms and conditions should govern points of interconnection (POIs) when:	55.2.1(c)	<p>NOTE, no dispute over actual language - only 251(c)</p> <p>55.2.1(c) In geographic areas in which INTRADO COMM has been designated as the E911 Selective Routing provider, Embarq shall exchange 911 Service and E911 Service traffic with INTRADO COMM pursuant to Section 55.4.</p>	<p>NOTE, no dispute over actual language - only 251(c)</p> <p>55.2.1(c) In geographic areas in which INTRADO COMM has been designated as the E911 Selective Routing provider, Embarq shall exchange 911 Service and E911 Service traffic with INTRADO COMM pursuant to Section 55.4.</p>
<u>Issue 3(b)</u>	(a) Intrado Comm is the designated 911/E911 service provider;		<p>Issue 3(b) – RESOLVED see 55.2.1 in Resolved Issues</p>	
<u>Issue 3(c)</u>	(b) Embarq is the designated 911/E911 service provider;		<p>Issue 3(c) – RESOLVED see 55.2.4 in Resolved Issues</p>	
<u>Issue 4</u>	(c) when a fiber mid-span meet is used?			
	(a) Should specific terms and conditions be included in the ICA for inter-selective router trunking? If so, what are the appropriate terms and conditions?	55.5	<p>NOTE, no dispute over actual language - only 251(c)</p> <p>55.1.4 Two-way trunks shall be utilized if the Parties deploy E9-1-1 inter-Selective Router/E911 Tandem trunking configurations. These trunk configurations shall be dependent upon the Embarq E9-1-1 Selective Router capabilities. E9-1-1 inter-Selective Router trunking shall allow the transfer of E9-1-1 calls between PSAPs subtyping on each Party's respective E9-1-1 network.</p>	<p>NOTE, no dispute over actual language - only 251(c)</p> <p>55.1.4 Two-way trunks shall be utilized if the Parties deploy E9-1-1 inter-Selective Router/E911 Tandem trunking configurations. These trunk configurations shall be dependent upon the Embarq E9-1-1 Selective Router capabilities. E9-1-1 inter-Selective Router trunking shall allow the transfer of E9-1-1 calls between PSAPs subtyping on each Party's respective E9-1-1 network.</p>
	(b) Should specific terms and conditions be included in the ICA to support PSAP-to-PSAP call transfer with automatic location information ("ALI")? If so, what are the appropriate terms and conditions?		<p>55.5 Inter-Selective Router Trunking</p> <p>55.5.1 INTRADO COMM and Embarq may deploy bi-directional inter-SR trunking using two-way trunk configurations that will allow transfers</p>	<p>55.5 Inter-Selective Router Trunking</p> <p>55.5.1 INTRADO COMM and Embarq may deploy bi-directional inter-SR trunking using two-way trunk configurations that will allow transfers</p>

Attachment 1 – Intrado Comm Proposed Language

Issue #	Issue	ICA Reference	Intrado Comm Language	Embarq Language
			<p>between PSAPs subsuming Embarq Selective Routers and PSAPs subsuming on the INTRADO COMM Selective Routers.</p> <p>55.5.7 Where technically capable, each Party will establish and maintain appropriate Selective Routing database updates and/or trunk routing translations as necessary to support inter-tandem E9-1-1 PSAP call transfer capability requested by the 911 Authority.</p> <p>55.5.9 The Parties will maintain appropriate dial plans to support inter-Selective Router tandem transfer and each Party shall notify the other of changes, additions, or deletions to their respective inter-Selective Router dial plans.</p> <p>55.5.10 Each Party will be responsible for alarming and monitoring their respective originating E911 inter-Selective Routing trunks. Each Party shall notify the other of any service outages on their respective inter-Selective Routing trunk(s), and work cooperatively to restore service.</p>	<p>between PSAPs subsuming Embarq Selective Routers and PSAPs subsuming on the INTRADO COMM Selective Routers.</p> <p>55.5.7 Where technically capable, each Party will establish and maintain appropriate Selective Routing database updates and/or trunk routing translations as necessary to support inter-tandem E9-1-1 PSAP call transfer capability requested by the 911 Authority.</p> <p>55.5.9 The Parties will maintain appropriate dial plans to support inter-Selective Router tandem transfer and each Party shall notify the other of changes, additions, or deletions to their respective inter-Selective Router dial plans.</p> <p>55.5.10 Each Party will be responsible for alarming and monitoring their respective originating E911 inter-Selective Routing trunks. Each Party shall notify the other of any service outages on their respective inter-Selective Routing trunk(s), and work cooperatively to restore service.</p>
<u>Issue 5</u>	Should the interconnection agreement include the terms and conditions under which Embarq orders service from Intrado? If so, what are the appropriate terms and conditions.	72.14	<p>NOTE, no dispute over actual language - only 251(c)</p> <p>72.14 INTRADO COMM Ordering Processes</p>	<p>NOTE, no dispute over actual language - only 251(c)</p> <p>72.14 INTRADO COMM Ordering Processes</p>

Attachment 1 – Intrado Comm Proposed Language

Issue #	Issue	ICA Reference	Intrado Comm Language	Embarq Language
<u>Issue 6(a)</u>	What terms and conditions should be included in the ICA to address access to 911/E911 database information when Embarq is the Designated E911 Service Provider?	75.2.6	72.14.1 Where Embarq is ordering interconnection to INTRADO COMM's network, Embarq will follow INTRADO COMM's INTRADO ordering processes as posted on the INTRADO COMM website. RESOLVED	72.14.1 Where Embarq is ordering interconnection to INTRADO COMM's network, Embarq will follow INTRADO COMM's INTRADO ordering processes as posted on the INTRADO COMM website. RESOLVED
<u>Issue 6(b)</u>	What terms and conditions should be included in the ICA to address access to 911/E911 database information when Intrado Comm is the Designated E911 Service Provider?	75.2.7 75.2.8	<p>NOTE, no dispute over actual language - only 251(c)</p> <p>75.2.7 Basic 911 and E911 Database Requirements in Geographic Areas where INTRADO COMM Has Been Designated as the Primary 911 Service and E911 Service Provider by the E911 Authority and Manages the 911/E911 Database</p> <p>(a) The ALI database shall be managed and exclusively owned by INTRADO COMM. The subscriber data provided by Embarq is owned by Embarq.</p> <p>(b) To the extent allowed by the E911 Authority, and where available, INTRADO COMM shall provide an initial MSAG load and daily updates to Embarq for use in submitting MSAG valid End-User record information to INTRADO COMM. The information shall be provided in a mutually agreed</p>	<p>NOTE, no dispute over actual language - only 251(c)</p> <p>75.2.7 Basic 911 and E911 Database Requirements in Geographic Areas where INTRADO COMM Has Been Designated as the Primary 911 Service and E911 Service Provider by the E911 Authority and Manages the 911/E911 Database</p> <p>(a) The ALI database shall be managed and exclusively owned by INTRADO COMM. The subscriber data provided by Embarq is owned by Embarq.</p> <p>(b) To the extent allowed by the E911 Authority, and where available, INTRADO COMM shall provide an initial MSAG load and daily updates to Embarq for use in submitting MSAG valid End-User record information to INTRADO COMM. The information shall be provided in a mutually agreed</p>

Attachment 1 – Intrado Comm Proposed Language

Issue #	Issue	ICA Reference	Intrado Comm Language	Embarq Language
			<p>medium in a format compliant with NENA recommendations.</p> <p>(c) Embarq shall be solely responsible for providing Embarq database records to INTRADO COMM for inclusion in INTRADO COMM's Selective Router or ALI database on a timely basis.</p> <p>(d) INTRADO COMM and Embarq shall arrange for the automated input and periodic updating of the E911 database information related to Embarq End-Users. INTRADO COMM shall work cooperatively with Embarq to ensure the accuracy of the data transfer by verifying it against the MSAG. INTRADO COMM shall accept and submit electronically transmitted files that conform to a mutually agreeable NENA format.</p> <p>(e) Embarq shall assign an E911 database coordinator charged with the responsibility of forwarding Embarq End-User ALI record information or SOI to INTRADO COMM or via a third-party entity, charged with the responsibility of ALI record transfer. Embarq assumes all responsibility for the accuracy of the data that Embarq provides to INTRADO COMM.</p> <p>(f) Embarq shall provide information on new End-Users to INTRADO COMM within one (1) business day of the order</p>	<p>medium in a format compliant with NENA recommendations.</p> <p>(c) Embarq shall be solely responsible for providing Embarq database records to INTRADO COMM for inclusion in INTRADO COMM's Selective Router or ALI database on a timely basis.</p> <p>(d) INTRADO COMM and Embarq shall arrange for the automated input and periodic updating of the E911 database information related to Embarq End-Users. INTRADO COMM shall work cooperatively with Embarq to ensure the accuracy of the data transfer by verifying it against the MSAG. INTRADO COMM shall accept and submit electronically transmitted files that conform to a mutually agreeable NENA format.</p> <p>(e) Embarq shall assign an E911 database coordinator charged with the responsibility of forwarding Embarq End-User ALI record information or SOI to INTRADO COMM or via a third-party entity, charged with the responsibility of ALI record transfer. Embarq assumes all responsibility for the accuracy of the data that Embarq provides to INTRADO COMM.</p> <p>(f) Embarq shall provide information on new End-Users to INTRADO COMM within one (1) business day of the order</p>

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			<p>completion. INTRADO COMM shall update the database within two (2) Business Days of receiving the data from Embarq. If INTRADO COMM detects an error in the Embarq provided data, the data shall be returned to Embarq within two (2) Business Days from when it was provided to INTRADO COMM. Embarq shall respond to requests from INTRADO COMM to make corrections to database record errors by uploading corrected SOI records within two (2) Business Days. Manual entry shall be allowed only in the event that the system is not functioning properly.</p> <p>(g) INTRADO COMM agrees to treat all data on Embarq End-Users provided under this Agreement as confidential in accordance with CPNI rules and to use data on Embarq End-Users only for the purpose of providing E911 Services. In accordance with CPNI rules, INTRADO COMM may also use such End-User data to provide "Emergency Services," "Emergency Notification Services," and "Emergency Support Services" as those terms are defined in the Wireless Communications and Public Safety Act of 1999.</p> <p>7.2.8 The Parties shall load pANI Shell Records and update ALI steering tables in both the Embarq and INTRADO COMM ALI databases to support PSAP-to-PSAP call transfer with ALI for dynamic ALI</p>	<p>completion. INTRADO COMM shall update the database within two (2) Business Days of receiving the data from Embarq. If INTRADO COMM detects an error in the Embarq provided data, the data shall be returned to Embarq within two (2) Business Days from when it was provided to INTRADO COMM. Embarq shall respond to requests from INTRADO COMM to make corrections to database record errors by uploading corrected SOI records within two (2) Business Days. Manual entry shall be allowed only in the event that the system is not functioning properly.</p> <p>(g) INTRADO COMM agrees to treat all data on Embarq End-Users provided under this Agreement as confidential in accordance with CPNI rules and to use data on Embarq End-Users only for the purpose of providing E911 Services. In accordance with CPNI rules, INTRADO COMM may also use such End-User data to provide "Emergency Services," "Emergency Notification Services," and "Emergency Support Services" as those terms are defined in the Wireless Communications and Public Safety Act of 1999.</p>

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<u>Issue #</u>	<u>Issue</u>	<u>ICA Reference</u>	<u>Intrado Comm Language</u>	<u>Embarq Language</u>
<u>Issue 7</u>	Should 911/E911 Service calls be included in the type of traffic to be exchanged by the Parties over local interconnection trunks?	55.1	type calls (e.g. wireless and nomadic VoIP calls). The Parties shall reciprocally terminate Local Traffic, and Intral.ATA/InterLATA toll calls, and 911 Service and E911 Service calls originating on the other Party's network as follows:	The Parties shall reciprocally terminate Local Traffic and Intral.ATA/InterLATA toll calls originating on the other Party's network as follows:
<u>Issue 8</u>	What Embarq's obligations to build out transport facilities	55.2.4	RESOLVED	RESOLVED
<u>Issue 9</u>	Under § 251(c), should Embarq be required to maintain certain company identifiers and codes to interconnect with Intrado and terminate traffic on Intrado's network?	55.3.3.(b)	RESOLVED	RESOLVED
<u>Issue 10</u>	What limitation of liability and/or indemnification language should be included in the ICA?	12.7	RESOLVED	RESOLVED
<u>Issue 11</u>	How should the term "End User" be defined and where should it be used in the ICA?	1.54 See note i	"End-User" means the individual that subscribes to (subscriber of record) and/or uses the Telecommunications Services provided by Embarq or INTRADO COMM.	For the purposes of this agreement "End-User" means the individual that makes the 9-1-1 call or the PSAP receiving the call for the purpose of initiating the emergency or public safety response.
<u>Issue 12</u>	How should the term "Enhanced 911 Service" be defined in the ICA?	1.55	RESOLVED	RESOLVED
<u>Issue 13</u>	Should the term "designated" or the	75.2.3	75.2.3 in government jurisdictions where Embarq has obligations under existing	75.2.3 In government jurisdictions where Embarq has obligations under

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	term "primary" be used to indicate which Party is serving the 911 Authority?	75.2.4	<p>agreements as the <u>primary-designated</u> provider of the 911 System to the county (Host Embarq), INTRADO COMM shall participate in the provision of the 911 System in accordance with this Agreement or applicable tariffs, as appropriate.</p> <p>75.2.4 In government jurisdictions where INTRADO COMM has obligations under existing agreements as the <u>primary</u> designated provider of the 911 System to the county (Host INTRADO COMM), Embarq shall participate in the provision of the 911 System in accordance with this Agreement or applicable tariffs, as appropriate.</p>	<p>existing agreements as the <u>primary</u> provider of the 911 System to the county (Host Embarq), INTRADO COMM shall participate in the provision of the 911 System in accordance with this Agreement or applicable tariffs, as appropriate.</p> <p>75.2.4 In government jurisdictions where INTRADO COMM has obligations under existing agreements as the <u>primary</u> provider of the 911 System to the county (Host INTRADO COMM), Embarq shall participate in the provision of the 911 System in accordance with this Agreement or applicable tariffs, as appropriate.</p>
<u>Issue 14</u>	What are the appropriate terms and conditions regarding audits?	8.1	<p>Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the other Party involved. Subject to each Party's reasonable security requirements and except as may be otherwise specifically provided in this Agreement, either Party, at its own expense, may perform an audit through an independent third party of the other Party's books, records and other documents directly related to billing and invoicing once in any twelve (12) month period for the purpose of evaluating the accuracy of the other Party's billing and invoicing. "Audit" shall mean a comprehensive review of bills for services performed under this Agreement;</p>	<p>Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the other Party involved. Subject to each Party's reasonable security requirements and except as may be otherwise specifically provided in this Agreement, either Party, at its own expense, may audit the other Party's books, records and other documents directly related to billing and invoicing once in any twelve (12) month period for the purpose of evaluating the accuracy of the other Party's billing and invoicing. "Audit" shall mean a comprehensive review of bills for services performed under this Agreement; "Examination" shall mean an inquiry into</p>

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			<p>"Examination" shall mean an inquiry into a specific element of or process related to bills for services performed under this Agreement. Either Party (the "Requesting Party") may perform one (1) Audit per twelve (12) month period commencing with the Effective Date, with the assistance of the other Party, which will not be unreasonably withheld. The Audit period will include no more than the preceding twelve (12) month period as of the date of the Audit request. The Requesting Party may perform Examinations, as it deems necessary, with the assistance of the other Party, which will not be unreasonably withheld.</p>	<p>a specific element of or process related to bills for services performed under this Agreement. Either Party (the "Requesting Party") may perform one (1) Audit per twelve (12) month period commencing with the Effective Date, with the assistance of the other Party, which will not be unreasonably withheld. The Audit period will include no more than the preceding twelve (12) month period as of the date of the Audit request. The Requesting Party may perform Examinations, as it deems necessary, with the assistance of the other Party, which will not be unreasonably withheld.</p>

i The relevant sections are: Whereas Clause 1, 1.15, 1.19.1, 1.33, 1.37, 1.38, 1.40, 1.58, 1.59, 1.60, 1.61, 1.69, 1.72, 1.78, 1.87, 1.102, 1.126, 1.128, 1.129, 3.1, 6.2, 11.2, 11.3, 11.8, 12.1, 13.1, 13.2, 13.3, 15.8, 27.2.1, 27.4.1, 35.1, 35.1.2, 35.1.4, 35.1.5, 35.1.6, 38.1, 39.1.1, 39.1.2, 39.1.3, 39.1.5, 39.1.6, 39.1.7, 39.1.9, 39.1.10, 41.1, 41.3, 41.4.3, 42.1, 44.1, 44.2, 44.4, 45.2.4, 45.3.1, 45.4.3, 45.8.4, 45.12.1, 45.12.2, 46.3, 46.4, 46.7, 50.2, 50.3, 53.2, 53.5.1, 53.5.3, 54.1.1(a), 54.2.1(a), 54.4, 56.4, 57.4, 63.2, 63.3.2, 66.1, 66.2, 67.1, 67.2, 68.3, 69.1.1, 69.1.2, 70.2, 71.1.1, 71.1.2, 71.1.3, 71.2.1, 72.2.3, 72.5.1, 72.5.3, 72.6.1, 72.6.2, 72.6.3, 72.5.6, 72.11.2, 72.12.1, 73.1, 73.2.3, 73.3.1, 73.5.4, 73.7.1, 73.8.1.2, 74.4, 74.6, 75.2.2, 75.3, 75.3.3, 75.3.4, 75.3.5, 75.3.6, 75.3.8, 75.3.10, 75.4.2, 75.4.3, 75.4.4, 75.5.1, 75.5.2, 78.6, 85.5, 91.6, and 94.2.