

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Intrado Communications, Inc. for arbitration to establish an interconnection agreement with Verizon Florida LLC, pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Section 364.162, F.S.

DOCKET NO. 080134-TP
ORDER NO. PSC-09-0681-PCO-TP
ISSUED: October 13, 2009

ORDER DENYING MOTION FOR NEW ISSUES AND ESTABLISHING NEW PROCEDURAL DATES

Background

On August 13, 2009, Verizon Florida LLC (Verizon) filed a Motion to Add Issues and Establish a New Hearing Date. In its request, Verizon states that good cause exists to add two issues to the current arbitration for consideration and resolution because of apparent new information provided by Intrado Communications, Inc. (Intrado Comm).

Issue 1(a): What service(s) does Intrado Comm currently provide or intend to provide in Florida? (b): Of the services identified in (a), for which, if any, is Verizon required to offer interconnection under Section 251(c) of the Communications Act of 1934, as amended?

Issue 2: If Enterprise 911 is a telephone exchange service, does Intrado Comm have to file a new request for arbitration?

In addition, Verizon proposes that the hearing date be delayed two months to allow time for discovery regarding Intrado Comm's Enterprise 911 Service.

Intrado Comm filed a Response to Verizon's Motion to Add Issues and Establish a New Hearing Date on August 19, 2009. In its Response, Intrado Comm disputes Verizon's assertion, stating that its Enterprise 911 Service has been raised in every filing made in this docket.

While the parties disagreed regarding the need for additional issues, the parties agreed on delaying the Prehearing and Hearing. Therefore, on August 24, 2009, an Order Cancelling the Prehearing Conference was issued.

New Issues

Verizon's request for additional issues is predicated on Intrado Comm's Enterprise 911 Service being a new concept raised during Intrado Comm's Rebuttal Testimony. In its response, Intrado Comm states it has discussed its offering in every filing to date.

DOCUMENT NUMBER-DATE

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Upon review of Intrado Comm's responses to discovery and filings, enterprise service has been referenced in this arbitration process; however, the service was not specifically referred to as "Enterprise 911 Service" until June 9, 2009, when Intrado Comm revised its price list. Intrado Comm asserts that it referred to its service as the Intelligent Emergency Network® 911 service in response to Verizon's First Set of Interrogatories to Intrado Comm¹ and in the pre-filed Direct Testimony of Witness Hicks and Witness Sorensen.²

Given that clarification, I find that Intrado Comm's Enterprise 911 Service does not rise to the level of new services outside the scope of Intrado Comm's Petition for Arbitration. As such, Verizon's Motion for Additional Issues is denied. In order to gather any additional clarification, Verizon will have an opportunity to do additional discovery (as discussed below) and to cross-examine witnesses at the hearing.

Additional Discovery

When the parties submitted their joint email request³ that the prehearing and hearing be delayed, they agreed to differ on whether the discovery deadline should be extended. Verizon states that it and Commission staff should be given the opportunity to conduct additional discovery. Intrado Comm argues that Verizon had a long discovery window to issue discovery regarding Intrado Comm's Enterprise 911 Service and will be afforded the opportunity to ask additional questions during the cross-examination process.

Given the revised hearing schedule, granting additional discovery for parties and Commission staff would not result in an unnecessary delay in reaching resolution of this case, nor would it unfairly prejudice either party. Accordingly, additional discovery is allowed pursuant to the following revised procedural dates.

New Procedural Dates

- 1) Discovery Cutoff – November 20, 2009
- 2) Prehearing - February 10, 2010
- 3) Hearing - February 23, 2010
- 4) Briefs – March 24, 2010

Based upon the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Verizon Florida, LLC's request for Additional Issues is hereby denied. It is further

ORDERED that Verizon Florida, LLC's Motion for Additional Discovery is hereby granted. It is further

¹ Intrado Comm Response, Attachment 1, pg 2 - 4.


² Intrado Comm Response, Attachment 5.

³ Received by our staff on August 19, 2009.

ORDERED that the controlling dates as established in Order Nos. PSC-08-0745-PCO-TP and PSC-09-0189-PCO-TP are modified as set forth in this Order. It is further

ORDERED that Order Nos. PSC-08-0745-PCO-TP and PSC-09-0189-PCO-TP are reaffirmed in all other aspects.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 13th day of October, 2009.


LISA POLAK EDGAR
Commissioner and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review

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of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.