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080134-TP

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**Sent:** Monday, November 30, 2009 4:11 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 080134-TP - Intrado Comm Notice of Supplemental Authority  
**Attachments:** Docket 080134-TP, Intrado Comm Supplemental Authority.pdf

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Docket No. 080134-TP – 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 364.12, F.S.

This document is being filed on behalf of Intrado Communications Inc.

The total number of pages is 57.

The document is Intrado Communications Inc.'s notice of supplemental authority and response to the supplemental filing made by Verizon Florida LLC.

Respectfully submitted,

Angela Collins

11/30/2009

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November 30, 2009

**Via Electronic Filing**

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**Re: Docket No. 080134-TP**

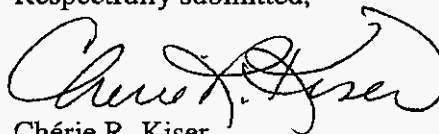
Dear Ms. Cole:

Intrado Communications Inc. ("Intrado Comm"), by its attorneys, respectfully submits this supplemental authority in connection with the above-referenced case and responds to the supplemental authority recently submitted by Verizon Florida LLC. On November 13, 2009, the Hearing Examiner conducting the arbitration between Intrado Comm and Verizon for the state of Maryland issued a Proposed Order granting Intrado Comm Section 251(c) interconnection. The Maryland Proposed Order will become a final order of the Maryland Public Service Commission on December 15, 2009 unless an appeal is filed prior to that date. A copy of the Maryland Proposed Order is attached.

On November 30, 2009, Verizon Florida submitted a copy of an Arbitrators' Order from the Parties' Texas arbitration proceeding. Verizon Florida fails to note that this order is not final and is subject to modification by the full Texas commission. Verizon Florida also fails to mention that the Texas Arbitrators recognized that Intrado Comm is entitled to interconnect with Verizon pursuant to Sections 251(a) and (b) of the Communications Act of 1934, as amended (*see* page 23).

If you have any questions concerning this matter, please contact the undersigned.

Respectfully submitted,



Chérie R. Kiser  
Counsel for Intrado Communications Inc.

Attachment

cc: Parties of Record

56997.1

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# Attachment 1

STATE OF MARYLAND  
PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE PETITION OF \*  
INTRADO COMMUNICATIONS INC. FOR \*  
ARBITRATION TO ESTABLISH AN \*  
INTERCONNECTION AGREEMENT WITH \*  
VERIZON MARYLAND INC. PURSUANT TO \*  
THE FEDERAL TELECOMMUNICATIONS ACT \*

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND

\_\_\_\_\_  
CASE NO. 9138  
\_\_\_\_\_

PROPOSED ORDER OF HEARING EXAMINER

Before: Robert H. McGowan  
Hearing Examiner

Issued: November 13, 2009

DOCUMENT NUMBER-DAT

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**APPEARANCES:**

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Leigh H. Hyer, for Verizon Maryland, Inc.

Janice M. Flynn, for the Staff of the Public Service  
Commission of Maryland.

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I. PROCEDURAL HISTORY

On March 5, 2007 Intrado Communications, Inc. ("Intrado") filed a Petition for Arbitration to Establish an Interconnection Agreement with Verizon Maryland Inc. Pursuant to Section 252(b) of the Communications Act of 1934 ("the Petition"). The Commission docketed this matter as Case 9138, and on March 25, 2008 delegated it to the Hearing Examiner Division. On March 31, 2008 Verizon Maryland, Inc. ("Verizon") responded to the Petition and also moved to hold the Petition in abeyance. Meanwhile, on May 18, 2007, Intrado requested that Verizon negotiate an interconnection agreement for all the states in Verizon's territory. Over the next several months Intrado proposed various drafts of an interconnection agreement. On January 16, 2007 Verizon responded to Intrado's drafts. In response Intrado provided a revised draft of the agreement on February 13, 2007, and negotiations between Intrado and Verizon continued.

On April 9, 2008, Verizon withdrew its motion to hold the Petition in abeyance "upon the Commission's accepting the parties' agreement to defer the arbitration 60 days." The Commission accepted the parties' agreement on June 16, 2008. The Hearing Examiner issued a procedural schedule on September 10, 2008. On September 12, 2008 Verizon and Intrado submitted



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their Joint Disputed Issues Matrix, a summary of their opposing views.

On October 23, 2008, Intrado filed the direct testimony of Thomas W. Hicks, its Director-Carrier Relations, and Carey F. Spence-Lenss, its Vice President of Regulatory and Governmental Affairs. Also on October 23, 2008, Verizon filed a copy of the interconnection agreement between Intrado and Verizon, and the direct testimonies of Verizon witnesses Peter D'Amico, a Product Manager in the Switched Access and Interconnection Product Management Group; John Gilbert, Vice President of Regulatory Affairs, and Maureen Napolitano, National Director for E9-1-1 Customer Service for Verizon Business. The parties filed reply testimony of the same witnesses on November 20, 2008, and a second Joint Issues Matrix on December 12, 2008.

A hearing for cross-examination of pre-filed testimony was held on January 7, 2009. Initial briefs were filed on February 20, 2009, and Reply Briefs on March 25, 2009.

On April 8, 2009 this Hearing Examiner issued a Scheduling Notice in response to information from Verizon that the Federal Communications Commission ("FCC") was soon to issue an order relevant to this case. The Scheduling Order stated that the Hearing Examiner would not issue a Proposed Order in this matter prior to issuance of the FCC order. On April 15, 2009 Intrado requested reconsideration of the Scheduling Order. On July 1, 2009 the Hearing Examiner requested that the parties

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inform him if there were any indications that the FCC would issue an order relevant to Case 9138 by approximately September 1, 2009. The parties replied that there was no indication that the FCC would issue any decision on this matter by September 2009. With their replies both Intrado and Verizon filed copies of various out-of-state decisions related to the issues presented in Case 9138.

The Commission Staff did not take an active role in this Case.

**II. BACKGROUND**

In its Petition for Arbitration Intrado stated that it "seeks physical interconnection with Verizon to offer competitive local exchange services in Maryland, including a competitive alternative to the ILEC 911 network provided to Public Safety Answering Points ("PSAPs") and other public safety agencies." Petition at 3. In short, Intrado seeks to provide Maryland with an alternative 911 system. While Intrado states that it wishes to interconnect with local exchange carriers, wireless providers, and other service providers, its basic goal is to carry 911 calls in Maryland.

Emergency telephone service (911) and enhanced emergency telephone service (E911) allow callers to reach emergency services rapidly by dialing 911 to contact public safety answering points (PSAPs), which may also be called 911 centers or emergency service centers. In basic 911 services the

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PSAP usually receives only a voice call. In E911 service the PSAP receives the call plus the caller's telephone number through a feature known as automatic number identification (ANI). Under E911 the PSAP also receives automatic location information (ALI), giving the PSAP the actual location of the caller. See Hicks Dir. T at 6-10.. PSAPs are operated and managed by the individual counties. In Maryland the only 911 provider is Verizon.

Intrado apparently plans to offer more 911<sup>1</sup> services than ordinary competitive local exchange carriers (CLECs) offer. For example, Intrado's 911 service would give PSAPs "access to voice, data, streaming media capabilities... wireline, wireless, Internet telephony, and other technologies in use today." Spence-Lenses Dir. T @7. Intrado's service could also, for example, accommodate heart defibrillators that would dial 911 as soon as a heart attack began. *Id.* (All CLECs must provide 911 service, as required by the Telecommunications Act of 1996. Thus all CLECs must arrange with the Incumbent Local Exchange Carrier, here Verizon, for handling of CLEC customers' 911 calls).

In his Direct Testimony Intrado's witness Hicks states that to offer its competitive 911 service in Maryland, Intrado must connect its network to the public switched network (PSTN). Mr. Hicks further noted that there are three

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<sup>1</sup> All references to 911 in this Proposed Order include references to E911.

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"integrated components" of 911 service: the selective router or 911 tandem and the associated selective router database; the Automatic Location Information database; finally there are transport infrastructures between the public safety access point and the selective router and between the PSAP and the ALI database. The challenges of blending Intrado's system with Verizon's have given rise to the central issues in this arbitration.

Intrado witness Hicks further testified that Intrado's Protocol based network is designed to interoperate with existing legacy PSAP equipment and incumbent networks. Intrado proposes to provide emergency call delivery and management services for both voice and data transmissions through the automatic retrieval and delivery of information directly to PSAPs and other government agencies. Generally, Intrado expects to offer "more comprehensive and robust call transfer capabilities than that accurately offered by the legacy 911 environment. Specifically, Intrado is able to transfer 'images, graphics, video and textual data', unlike Verizon." Hicks Direct T. at 6-7.

Intrado and Verizon have been unable to finalize an interconnection agreement as contemplated by Section 252 of the Communications Act of 1934, as amended ("the Act"). Section 252 permits a carrier to petition a state commission to arbitrate any issues left unresolved after voluntary negotiations between the carriers have occurred. See 47 U.S.C. §252(b)(1).

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Intrado already has authority to operate as a competitive local exchange telecommunications provider in Maryland.<sup>2</sup> Petition at 5. Its 911/E-911 service offering includes aggregation, routing, transmission, and transport of traditional and non-traditional emerging call traffic to PSAPs. Petition at 5-6.

In Maryland, the Emergency Number Systems Board ("Board") coordinates the implementation, maintenance, and operation of County or multicounty 911 systems. The Board was not a party to this case. On October 29, 2009, the Emergency Numbers Systems Board filed a letter with the Commission noting that its primary concerns are system reliability, operational efficiency, and control of system costs. Further noting that Maryland employs twenty-four PSAPs throughout the State, the Board asks the Commission to be mindful of any incremental budgetary and operational impact a decision in this case might have on Maryland PSAPs.

It is likely that, should Intrado obtain 911 authorizations in Maryland, contracts for competitive services may be awarded by a bidding process. Verizon In. Br. at 5. Intrado also anticipates that the State and individual local governments will submit bids for 911 service. Jan. 7 Trans.@ 58.

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<sup>2</sup> By letter dated March 20, 2002 (TE-4812) the Commission authorized Intrado to operate as a provider of resold and facilities based local exchange interexchange telecommunications services.

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III. Issues

This Proposed Order does not decide a potentially threshold issue commented upon in the parties' briefs. Specifically, Verizon maintains that "the issue of Intrado's entitlement to Section §251(c) [of the Act] interconnection ... "is an open question before the FCC's Wireline Competition Bureau in Intrado's arbitrations with Verizon..." Verizon Rep. Br. At 1. Verizon furthermore states that it has never conceded that Intrado is entitled to Section §251(c) interconnection, and if this Commission determined that §251(c) interconnection was inappropriate, the Commission would have to dismiss Intrado's petition<sup>3</sup>. Verizon pointed to decisions at the Florida and Illinois commissions that determined Intrado was not providing telephone exchange service, and therefore could not be a party to arbitration under 251(c). Ver. In. Br. At 3-4.

Intrado, in its Reply Brief, asserted that Verizon was attempting to "ambush" Intrado by claiming only at a late stage of this case that Intrado is not entitled to Section 251(c) arbitration. Intrado relies on recent actions by the Ohio Commission that "confirmed on at least four prior occasions that Intrado 911 service is a telephone exchange service and that Intrado is entitled to all rights under Section 251 and

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<sup>3</sup> Verizon has referred both to §251(c) "interconnection" and §251(c) "arbitration". It is §252 that imposes procedures for arbitration, and §251(c) imposes on parties a "duty to negotiate in good faith in accordance with Section 252..."

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252. [of the Act]" Intrado Rep. Br at 6. In case the Commission should decide that 251 (c) arbitration is not appropriate here, Intrado claims that the Commission also has authority to arbitrate under Section 251 of the Act.

47 U.S.C. §252(b)(4)(A) requires that a state commission "limit its consideration of any petition... to the issues set forth in the petition and in the response." Here, as the parties have not included the appropriateness of Section 251(c) arbitration in their formal issue matrices, this Proposed Order renders no decision on whether Intrado is or not offering a telephone exchange or exchange access service, and will address only the issues squarely raised by both parties. The parties have argued some issues based on the provisions of §251(c), Verizon appears to have waived the threshold eligibility issue.<sup>4</sup> Verizon has stated that "this decision is a generic question of what are the duties of the two parties under 251(c) and under Section 252 arbitration." Jan 7. Trans. @ 62. This Proposed Order will therefore decide and discuss the case using 251(c) guidelines when appropriate.

A word about the parties' overall positions is appropriate here. Intrado maintains that the goal of Congress

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<sup>4</sup> Verizon did not include this issue in the matrix, and stated on brief that "[i]f this case proceeds, it is essential to keep in mind that it is an arbitration under Section 251(c) of the Act." Verizon In. Br at 4. Verizon also stated at the hearing that it "agreed in advance to not contest whether or not Intrado was providing local exchange service because they were certified as a CLEC ..." Jan. 7 Trans. at 61.

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in the Telecommunications Act was to ensure nationwide competitive telephone service, including competitive 911 service. See Intrado In. Br at 2. Consequently Intrado asserts that Section 251(c)(2)(c) of the Telecommunications Act, supported by decisions at other State commissions, requires Verizon to treat Intrado "equally" by building Verizon's network out to meet Intrado's, thus creating a point(s) of interconnection (POI) on Intrado's network. Only if Verizon builds its network out to Intrado's network does Intrado conclude that it will receive telecommunications service equal to what Verizon provides to itself.

Verizon also relies on Section 251(c) of the Act, but to oppose Intrado's contention that Verizon should connect with Intrado on Intrado's POI. Specifically, Verizon emphasizes Section 251 (c)(2)(B), which states that interconnection with any requesting telecommunications carrier shall be with the local exchange carrier "at any technically feasible point within the carriers network." Verizon argues that this language means that Intrado is legally required to interconnect on Verizon's network, and not vice versa.

Verizon does not object per se to Intrado's providing a competitive 911 service in Maryland. Verizon is willing to interconnect with Intrado either on terms set out in the Telecommunications Act (as Verizon understands them) or by special contract arrangement.



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Therefore, this is not a proceeding to determine if it is advisable to have competitive 911 service in Maryland, nor is it a proceeding to determine if Intrado should be one of those competitors. Rather, this proceeding is one to determine interconnection practices between Intrado and Verizon if Intrado enters the Maryland market as a 911 provider.

There are 17 contested issues, which will now be discussed beginning with Issue 3 of the matrix.

A. Issue 3- Where should the points of interconnection be located and what terms and conditions should apply with regard to interconnection and transport of traffic.

1. Intrado's Position

Intrado argues that the "POIs" necessary for its connection with Verizon should be on Intrado's network. POIs are the physical and financial demarcation point between different telecommunications networks. Intrado maintains that the POI for 911/E-911 service traffic is historically located at the selective router serving the PSAP to which the 911 call is directed. Intrado therefore wants the POI serving PSAPs that have contracted with Intrado to be on Intrado's network, which would require Verizon to build out its network to Intrado's. Intrado claims that it will create two geographically diverse POIs (at unspecified locations) on its Maryland network, and would aggregate and direct its 911 calls to those POIs. Intrado further maintains that its proposed arrangement is consistent with Verizon's current practices, FCC rulings, and precedent by

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the Ohio commission, which determined that the POI should be at the selective router of the E-9-1-1 provider (here Intrado).

Intrado relies on language in the FCC's Virginia Arbitration Order to support its position that Verizon must connect with Intrado on Intrado's network. Intrado specifically relies on language by the FCC that "an [incumbent carrier] must allow a requesting telecommunication carrier to interconnect at any technically feasible point," and "competitive carriers may request interconnection at any technically feasible point." 17 FCC Rcd 27039, ¶52 (2002)

Intrado also argues that §251(c)(2)(C) of the Act, which requires that interconnection provided by ILECs to CLECs must be "equal in quality to that provided by the local exchange carrier to itself or to any other subsidiary, affiliate, or other party to which the carrier provides interconnection," necessitates Verizon extending its network to POIs on Intrado's network. Intrado urges, too, that the method of Verizon's interconnection with other ILECs sets a precedent for location of the Verizon/Intrado POI on Intrado's network. Intrado maintains that as Verizon is the only 911 provider in Maryland, and all connections to PSAPs are on Verizon's network, Verizon must bring its network out to Intrado's in order to achieve the equality of service mandated in §251(c)(2)(C) of the Act.

Intrado further asserts that the language of §251(c)(2)(B), requiring interconnection within the ILEC's network, is language more applicable to Plain Old Telephone



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Service ("POTS") than to 911 service providers. As Intrado concludes that §251(c)(2)(B) is limited to POTS, Intrado also reasons that it cannot prevent the equal in quality requirement of §251(c)(2)(C) from governing competitive 911 service.

Intrado's third argument is apparently that this Commission has the flexibility, under §253(b) of the Act, to adopt Intrado's proposals regardless of other specific provisions of the Act. Section 253(b) of the Act gives states freedom to impose, on a competitively neutral basis, "requirements necessary to preserve and advance universal service." By relying on §253(b) Intrado contends, that the Commission would meet the "broad objections" of the Act, namely furthering telecommunications competition.

## 2. Verizon's Position

Verizon sees Intrado's attempt to require Verizon to extend its network out to meet Intrado's as an attempt to make Verizon pay for Intrado's 911 network in Maryland. In fact Verizon sees the question of "who pays?" for Intrado's network as "the chief difference between Intrado's and Verizon's interconnection proposals." Ver.In. Br. At 7.

Verizon opposes each of Intrado's arguments that Verizon should transfer 911 calls to POIs on Intrado's network. In addition to its financial concerns, Verizon bases its chief objection on the language of §251 (c)(2)(B) of the Act, which states that each incumbent local exchange carrier [here Verizon] has the duty to provide "interconnection with the local exchange

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carrier's network ... at any technically feasible point within the carrier's network." Verizon asserts that it is impossible to comply with the requirement of §251(c)(2)(B) that points of interconnection be "within [the ILEC's] network" by placing those points outside the ILECs network and on Intrado's system.

Verizon also points out that the FCC's rule 51.305, implementing Section 251(c), states that the incumbent local exchange carrier must allow interconnection with its [the ILEC's] network at any technically feasible point within the carrier's network. 47 C.F.R. §51.305. Verizon contends that the statutory language can only mean that the Incumbent Local Exchange Carrier must provide interconnection with competitors on its own network. Verizon rejects as contrary to the statute any suggestion that it could be required to extend its own network out to interconnect with a competitor's network.

Verizon dismisses Intrado's arguments that its current interconnection with CLECs and ILECs is precedent for extending its network to Intrado's network. Verizon notes that the interconnections it has with the other ILECs in many cases pre-date §251, and thus, Verizon argues, cannot be used to support interconnection under §251. Verizon also claims that it offered Intrado the same interconnection it provides to CLECs- interconnection that Verizon maintains is consistent with Federal requirements- and Intrado rejected Verizon's proposal. Lastly on this issue, Verizon maintains that Intrado's argument based on the type of interconnection that exists between CLECs

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and Verizon is simply another version of Intrado's policy argument that, to foster competition, Verizon must place its POIs on Intrado's network. Verizon has maintained throughout this case that Intrado's position is contrary to Federal law.

Verizon also argues that the "equal in quality" requirement of Section 251(c)(2)(c) does not negate, or take precedence over, the §251(c)(2)(B) requirement that interconnection occur on the incumbent local exchange carrier's network. Verizon urges that the two provisions at issue, §§ 251(c)(2)(B) and (C), are separate and distinct. Subsection (B) is implemented through FCC Rule 51.305(a)(2), while Subsection (c) is implemented through FCC Rule 51.305(a)(3). Further, the two subsections are treated in separate parts of the FCC's Local Competition Order<sup>5</sup>. Verizon concludes that the two provisions are independent of each other, and subsection (c) cannot "obliterate" Subsection (B). Id. At 17.

Verizon further points out that the West Virginia arbitrator stressed that the equal in quality provision of §251(c)(2)(c) of the Act does not refer to the location of POIs, and thus cannot help Intrado to overcome the location requirement of §251(a)(2)(B). Verizon also references the FCC's Local Competition Order, which treats Sections (c)(2)(B) and (C) as separate sections governing separate subject areas.

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<sup>5</sup> Implementation of the Local Competition Provisions in the Telecom Act of 1996, First Report and Order, 11 FCC Rcd 15499 ¶ 209 and 224 (1996).

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Verizon also contends that Intrado's argument based on Section 253(b) of the Act is ineffective and essentially irrelevant. As Verizon concludes that "this is a Section 252 arbitration to implement the Section 251(c) interconnection requirements," it sees no place for Section 253. In any case Verizon sees Section 253(b) as a "safe harbor" provision preserving certain rights to the states, but in any case a general provision that cannot overcome the specific requirements of Section § 251(c)(2)(B).

**3. Analysis and Decision**

Section 251(c) of the Act, FCC Rule 51.305, and this Commission's ruling Case No. 79813 (Arbitration of U.S. LEC of Maryland Inc. vs. Verizon Maryland Inc.) all support the conclusion that the ILEC has the duty to provide "interconnection with the local exchange carrier's network... at any feasible point within the carrier's network."

The Federal law is clear. Intrado has urged that the FCC, in its Memorandum Opinion and Order, 17 FCC Red 27039 at ¶71 (2002), recognized that ILECs could deliver traffic to POIs other than those on their networks; even so, the choice of network location in this instance remains with the ILEC, and not the competitor (Intrado). In short, Verizon could choose to place POIs on Intrado's network, but Verizon is not legally required to do so. While Intrado has argued that the overall purpose of the Telecommunications Act as amended in 1996 is to advance competition, and placing POIs on Intrado's network would

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encourage competition, such policy arguments do not trump the clear language letter of the statute.

Intrado also points to decisions in other states that it claims support its position on POI location rather than Verizon's. For example, Intrado asserts that a recent decision by the Public Utilities Commission of Ohio<sup>6</sup> favors its position on location of POIs on Intrado's network. The Ohio Commission ruled that "the POI for 911 traffic should be at the selective router of the E911 service provider that serves the caller's designated PSAP."

Intrado further argues that §251(c)(2)(c), which requires that incumbent LECs provide interconnection "that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection" requires that POIs be placed on Intrado's network. Intrado apparently reasons that because Verizon connects with CLECs on Verizon's network, only a connection on Intrado's network would make Intrado equal to Verizon. Yet the equal access provision is one of four separately enumerated requirements of Section (c)(2)(A). As Verizon maintains, §251(c)(2)(C) does not provide a means of negating other requirements, such as §251(c)(2)(B). As Verizon correctly points out, §251(c)(2)(c), dealing with access of equal quality, is phrased broadly, and cannot overcome

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<sup>6</sup> Case No. 07-1280-TP-ARB arbitration award, (2009).

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§251(c)(2)(B), which specifically addresses placement of the points of interconnection. For it to do so would render the statute internally contradictory, raising the possibility that 251 (c)(2)(B) and (c)(2)(C) could be continually at war. Such a result is unnecessary, and opposed to accepted standards of statutory interpretation.

Intrado's argument that §251(a)(2)(B) is limited to POTS and that §251(a)(2)(C)'s equal service quality language requires Verizon to build its POIS on Intrado's network is simply without foundation. Intrado has marshalled no evidence indicating that §211(a)(2)(B) applies only to POTS. If that section did apply only to POTS, the parties would certainly have cited sections of the Act, or if other Federal law, that applied to 911 services. They have not done so.

Intrado's argument that §253(b) allows the Commission to overlook §251(c)(2)(B)'s requirements is also lacking. Arguably, that provision has nothing to do with Section 251(c)(2)(B). Further, the general language of §253(b) cannot overcome the clear and specific statement of §251(a)(2)(B) that CLECs shall interconnect within the ILEC's network.

Intrado and Verizon have exchanged many arguments relating to the proper and legal positioning of the points of interconnection between them. Exhaustive treatment of these arguments is unnecessary, given the clarity of the Federal statutory language, which places points of interconnection on the ILEC's network. Even Intrado witness Hicks admitted that



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the Act requires the POI to be on the ILEC's network. Hicks Direct T. at 17. This Proposed Order therefore adopts Verizon's language on location of the POIs between Verizon and Intrado.<sup>7</sup> There are numerous contested points in matrix Issue 3 that are apparently related to the main issue of POI location. Several of the contested points, such as those involving trunking and routing arrangements, arise at later points in the arbitration. The parties' briefs on issue 3 focused on the POI location almost exclusively, and this Proposed Order has addressed that issue specifically.

- B. Issue 4- Whether the parties should implement interselective router trunking and what terms and conditions should govern the exchange of 911/E-911 calls between the parties.**

This issue involves the means of transferring 911 calls that are misdirected to carrier A to their proper destination carrier B. Inter-selective router trunking is a significant issue because it allows the automatic number identification (ANI) and automatic location information (ALI) associated with a misdirected 911 call to remain with the call when it is transferred to another selective router and to another PSAP. Without inter-selective router trunking PSAPs would have to transfer calls over a local exchange line, losing ANI and ALI content. Hicks Direct at 21.

Intrado and Verizon do not disagree that calls being transferred from one party's PSAP to another party's PSAP should be

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<sup>7</sup> There is no dispute between the parties that when Verizon is the Carrier the POI should be on Verizon's network.

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transferred by means of inter-911 Tandem/Selective Router trunking. Verizon, however, rejects any router trunking arrangement that would require Verizon to build out its network to a POI on Intrado's network. Given that this Proposed Order has already found that the law does not require Verizon to connect at a POI on Intrado's network, Verizon's position prevail on this point.

A second part of issue 4 concerns Verizon's objections to Intrado's proposed language that would, according to Verizon, require "an excessive level of plan detail." Specifically, Verizon objects to Intrado's proposal that "the Parties... shall notify the other of changes, additions, or deletions to their inter-PSAP transfer dial plans." Verizon maintains that it will provide dial plan information to Intrado just as it does to other providers, but that Intrado is not entitled to special private notice of dial-plan changes under Section 251(c)(2) or any other provisions [of the Act]".

**1. Analysis and Decision**

There is little detail on this controversy in the record. As 911/E-911 service is a critical service, the Hearing Examiner cannot approve either Verizon's or Intrado's position. Instead, the following language will govern on this issue: "Verizon and Intrado shall timely inform each other of any and all changes to their inter-PSAP transfer dial plan if such change would reasonably affect the efficiency and/or the effectiveness of 911/E-911 provision by the other party."

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C. Issue 6- Whether forecasting requirements should be reciprocal.

1. Intrado's Position

Intrado agrees that only it should be required to provide an initial trunk forecast. Thereafter, however, Intrado would impose reciprocal traffic forecasting obligations on the parties. Hicks Dir. T. at 25. Intrado contends that as the "current monopoly provider of 911/E-911 services to PSAP's in Maryland, Verizon is uniquely situated to judge how many 911/E-911 calls are generally sent to a specific PSAP that may become Intrado's customer." Matrix at 14.

Intrado witness Hicks asserts that "Intrado must have some indication from Verizon as to how many 911 trunks will be required to support emergency calls between the parties' networks." Hicks Dir. At 23. Witness Hicks testified that forecasts are essential to assuring that the parties have ample equipment engineered, furnished and installed for both immediate and future growth. Id.

Intrado revised Verizon's language on trunk forecasting to make the forecasts reciprocal. The forecasts would support the mutual exchange of traffic's between the parties, according to Intrado.

2. Verizon's Position

Verizon objects to Intrado's request because it concludes that requiring Verizon to provide trunk forecasts to Intrado would not be useful, as Intrado's traffic would depend

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on Intrado's success in the marketplace. Verizon also maintains that the PSAPs who contract for Intrado's services will be the best source for predictions about the amount of traffic Intrado would handle as their 911 provider. Finally, Verizon notes that the mutual obligation Intrado seeks to impose on itself and Verizon implies that the parties will exchange traffic with each other. Verizon maintains, however, that Intrado's customers are PSAPs, and that PSAPs who have contracted with Intrado will not send traffic to Verizon.

3. Analysis and Decision

If both Intrado and Verizon are to offer 911 services in Maryland, both services need to be of the highest quality and reliability. It is reasonable to conclude that each caller's network will serve some callers from the other party's network at some point. While Verizon claims that Intrado's customers will be PSAPs who will not call Verizon, there is no proof of that in the record, nor can there be proof of a future situation.

This Hearing Examiner therefore agrees with the North Carolina Commission "that each party should exchange initial and on-going predictions and information on trunk traffic, as required to ensure that the emergency call traffic is handled in the most efficient manner following industry standards." North Carolina Docket No. P-1187, Sub. 2 at 57.

In any case, under the reciprocal reporting requirement ordered here, Verizon is free to inform Intrado that

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it will receive no calls from Intrado PSAPs, as long as that conclusion is based on Verizon's best analysis.

Therefore, Intrado's position is adopted on this issue.

D. Issue 9- What terms and conditions should govern how the parties will initiate interconnection?

1. Intrado's Position

Intrado's proposed language would require the parties to work cooperatively to designate a minimum of two geographically diverse POIs to be established on Intrado Comm's network. Intrado also has proposed other language related to the time and circumstances governing the Verizon/Intrado interconnection.

Intrado states in the Matrix, at 15, that the provisions for initiating interconnection should be based on the interconnection of Intrado and Verizon networks in areas in which Intrado is the 911 service provider. Intrado proposes that Verizon provide Intrado with "certain information" when "additional interconnection arrangements" are needed. That information would include "which points of interconnection are to be established on Intrado's network and a forecast of trunking requirements." Hicks Dir. T. at 26.

2. Verizon's Position

For Verizon, resolution of the language dispute that is Issue 9 depends on the resolution of Issue 3, whether Verizon can be required to interconnect with Intrado at POIs on

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Intrado's network. As Verizon claims that Federal law prevents it from being compelled to build on its network to Intrado's, Verizon would have us reject Intrado's language in Issue 9.

**3. Analysis and Decision**

This Proposed Order has already determined that the Telecommunications Act does not require Verizon to interconnect at POIs on Intrado's network. Thus, any language proposed by Intrado that is premised on a contrary assumption must be stricken from the parties' interconnection agreement. While most of Intrado's proposed language in Issue 9 falls into this unacceptable category, language stating that the parties shall agree on Intrado's intended activation date, create a forecast of Intrado's trunking requirements, (See Decision in Issue 6) and exchange information to effect interconnection efficiently appears unexceptionable, and it is retained.

**E. Issue 12- How should the parties route 911/E-911 calls to each other?**

**1. Intrado's Position**

Intrado states that this issue concerns how Verizon will route 911 calls when Intrado is the 911 service provider. Intrado claims that its proposal would create the same relationship between it and Verizon as exists between Verizon and the CLECs that have interconnected with Verizon.

Intrado has placed Issue 12 in the same category as Issue 3, and argued them both together. Issue 12 is more complex, however, than the question of where points of

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interconnection should be located: it involves two issues: trunking and call sorting, or routing. Intrado proposes language that would detail the number of dedicated, diversely routed 911 trunks, and the engineering, monitoring and maintenance of such trunks. By lumping Issues 3 and 12 together in its Initial Brief, Intrado appears to suggest that if its proposal for construction of POIs on its [Intrado's] network is approved, its call routing proposal would be approved as well. Intrado urges that Verizon be required to establish direct trunking from Verizon's end offices to Intrado's selective router, bypassing Verizon's selective router. In short, Intrado's proposal is for direct trunking to the selective router serving the PSAP. Matrix at 17. Intrado maintains that its suggested provisions are nearly identical to the provisions Verizon imposes on competitors seeking to terminate 911/E-911 calls on Verizon's network. Matrix at 16.

The second part of Issue 12 is the potential use of dedicated trunking from Verizon's end offices to deliver 911 calls to Intrado's selective router when Intrado is the designated 911 service provider. Intrado seeks to avoid reliance on Verizon's current routing system, which routes calls first to Verizon originating offices, then to a Verizon selective router, then to an Intrado selective router and then to the appropriate PSAP.

Intrado proposes an alternative routing structure that would avoid use of Intrado's selective router by connecting

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Verizon's selective router directly with PSAPs. Intrado refers to its proposed router format as "line attribute routing," and further explains that it "enables trunk route selective and transport configurations at the originating-office level." Hicks Direct T. at 33. Not only would its proposal reduce the number of possible trouble points, according to Intrado, but would require validating the accuracy of addresses stored in the ILEC's internal service provisioning systems. *Id.* at 33. Intrado is careful, however, to distinguish line attribute routing from "class marking", which it claims is an inferior form of call routing that could result in sending 911 calls to the wrong PSAP. *Id.* at 34.

Intrado claims it is seeking two determinations regarding call routing, as follows:

-when Intrado is the 911 service provider for an area containing Verizon end users, 911 calls from those end users should be routed from the originating office to Intrado's network over dedicated, diversely routed 911 trunks.

-when a portion of an end office is served by PSAPs hosted by separate 911 networks, the sorting of all calls to the appropriate 911 network should be performed at the originating office through the use of the caller's line attributes, rather than by inserting a second stage of switching at another central office. Hicks Dir. T. at 38.

Intrado maintains that Verizon currently trunks 911 calls from its end offices to its selective router when Verizon is the 911 provider. Intrado claims that existing trunks can also be



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used to create the routing network Intrado proposes- direct trunking to its own selective router. Intrado does acknowledge that in jurisdictions served by both Verizon and Intrado one trunk may have to be split into two separate dedicated trunk groups, which Intrado notes would simply be dividing existing capacity in two. *Id.* at 39. Verizon's proposal to use a common trunk for both its own and Intrado-bound 911 calls is not consistent with industry standards-especially (NENA) recommendations, according to Intrado's witness Hicks.

**2. Verizon's Position**

Verizon states that "Intrado's proposal for Issue 12, along with its proposal for Issue 3, regarding POI placement, constitutes Intrado's network architecture proposal." *Ver. In. Br.* at 27. Verizon claims that Intrado's plan would require Verizon to interconnect with Intrado on Intrado's network, which Verizon claims is contrary to Federal law. Verizon also objects to any attempt by Intrado to dictate how Verizon would move calls to Intrado's POIs. *Id.*

Therefore Verizon opposes Intrado's routing and trunking arrangements. Verizon maintains that Intrado's proposal would sacrifice the efficiencies in Verizon's current selective routing configuration. "As Verizon has testified, using selective routers is efficient because it allows a company to aggregate and route calls to multiple PSAPs through a single switch." *Ver. In Br.* at 41. Intrado's proposal is inefficient, according to Verizon, because it would require the construction

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of "multiple trunks from multiple end offices to multiple selective routers." *Id.*

Verizon also points out that Intrado's proposal would require some means of call identification or sorting such as "line attribute routing "or some unidentified call sorting alternative." *Id.* Verizon opposes line attribute routing as difficult, costly, and "never... implemented anywhere." *Id.* at 40. Verizon states that managers of 911 systems in several states, including Ohio, Texas, and West Virginia, have expressed significant reservations about line attribute routing, causing Intrado to offer line attribute routing only as a possibility. Verizon further notes that Intrado does not mention line attribute routing in its reply brief, leaving open the question whether it is still Intrado's proposal. Verizon states that its practice of selective routing (as opposed to Intrado's proposed line attribute routing) is the industry standard for moving 911 calls to the correct PSAP. *Ver. In. Br.* At 29-30. Verizon also challenges Intrado's claim that requiring Intrado's 911 calls to flow through Verizon's common trunks to PSAPs denied Intrado interconnection equal to Verizon's own or CLECs interconnection with Verizon. Verizon asserts that "the quality of interconnection that Verizon has offered to Intrado is exactly the same as the quality of interconnection Verizon provides to every Maryland CLEC." *Ver. In. Br.* At 32.

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3. Analysis and Decision

To the extent that in Issue 12 Intrado proposes that Verizon must interconnect with Intrado on Intrado's network, this Proposed Order's ruling on Issue 3 rejects such a claim. As to call routing, it is not clear precisely what Intrado is proposing. Intrado's Initial Brief (as opposed to Mr. Hicks' testimony) does not contain, within its Section 12 discussion entitled "How Should the Parties Route 911/E-911 calls to Each Other?", an actual discussion of line attribute routing. It is therefore uncertain whether Intrado still proposes that methodology. Based on that uncertainty alone, line attribute routing cannot be approved. Even if Intrado is still proposing line attribute routing, as described in Mr. Hick's testimony, Intrado has not countered Verizon's assertions that line attribute routing would require manual checking, thereby creating opportunity for error. By noting that addresses would need to be validated for line attribute routing to work, Intrado may be admitting that manual checking would be necessary. It is unclear if Intrado's version of line attribute routing has been implemented anywhere. Ver. In. Br at 40. There is certainly not a sufficient record here to implement it.

Therefore on both Issues 9 and 12 Intrado proposed Interconnection Agreement language is rejected, and Verizon's language is accepted.

F. Issue 13- Whether Section 911 Att. §1.1.1 of the ICA should contain a sentence drafted by Intrado, as follows: "For areas where Verizon is the 911/E-911 Service Provider, Verizon



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provides and maintains such equipment and software at the 911 Tandem/Selective Router(s) or selective router(s) and, if Verizon manages the ALI Database, this includes the ALI Database, as is necessary for 911/E-911 calls."

4. Intrado's Position

Intrado maintains that its language is necessary to support Intrado's assertion that the interconnection agreement should contain reciprocal provisions listing the components of Verizon's service offering if it also contains a list of Intrado's service offering components.

5. Verizon's Position

Verizon does not oppose listing its 911 network components in the interconnection agreement. Verizon, however does object to Intrado's language describing its Tandem/Selective Router(s) as inaccurate and "deliberately vague" regarding their function. Verizon maintains that its language clarifies that it routes more 911 calls from Verizon end offices to PSAPs. Intrado's language, to Verizon, would advance Intrado's objective of forcing Verizon to bypass its own routers and use another routing method. Ver. In. Br. At 50. Therefore, Verizon proposes language that is somewhat more specific than Intrado's: "For areas where Verizon is the 911/E-911 Service Provider, Verizon provides and maintains (a) Verizon 911 Tandem/Selective Router(s) for routing 911/E-911 calls from Verizon end offices to PSAP(s), and (b), if Verizon manages the ALI database, the ALI Database." (Verizon language underlined).

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**6. Analysis and Decision**

It is generally preferable that parties describe their own facilities in their own language. Thus, rather than sustain a controversy over the accuracy of Intrado's description of Verizon's facilities, it is better to use Verizon's own description. Further, as Verizon's language is more specific than Intrado's, and also clearly consistent with this Proposed Order's decision on Issue 3, it is hereby adopted. This decision does not undermine the goal of reciprocity, as both Verizon and Intrado will have described their 911 facilities accurately in their own words.

**G. Issue 14- Whether the Interconnection Agreement should contain provisions with regard to the parties maintaining ALI steering tables, and if so, what those provisions should be.**

**1. Intrado's Position**

Intrado claims that because its 911 service consists of three integrated parts (router, database system retaining the ALI, and transport of the 911 call to the PSAP), language pertaining to the ALI databases of Verizon and Intrado should be in the Interconnection Agreement. "Segmenting the physical switching and routing of 911 calls from the database that provides the routing information [ALI] for such calls, would significantly diminish the visibility and reliability of 911 services." Intrado emphasizes that as many as 30-40 percent of wireless 911 calls routinely require transfer to another PSAP, and without Intrado's language Maryland PSAPs would be unable to receive 911 call transfers with ALI. Intrado In. Br. At 46-7.

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2. Verizon's Position

Verizon accepts that the parties should cooperate to ensure that misdirected 911 calls are directed to the right PSAP. Verizon has also agreed to include its end user data in the automatic line identification database when Intrado is the carrier. Ver. In. Br. at 50-51. Verizon claims, however, that Intrado's Verizon's specific language requiring "the parties to work cooperatively to maintain the necessary ALI steering tables to support display of ALI between the parties' respective PSAP customers upon transfer of 911/E-911 calls" is inappropriate in an interconnection agreement. *Id* at 51.

Verizon maintains that the FCC has determined that the provisions of caller location information (ALI) to a PSAP is an information service, not a telecommunications service and as such, should not be included in an interconnection agreement. (Intrado admits that if ALI is provided as a stand-alone service it is an information service rather than a telecommunications service.) Verizon already has a commercial agreement with Intrado establishing ALI database arrangements in the ICA. Verizon also objects to any additional duty Intrado might seek to impose on Verizon to maintain Intrado's ALI tables.

3. Analysis and Decision

There is no question that both Verizon and Intrado understand the importance of ALI to the efficient provision of 911 services. The issue here is Intrado's suggested ICA language requiring that the parties cooperatively maintain Ali steering

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tables. While Intrado's goal here is worthwhile, Intrado's language is vague, and may therefore be surplusage or otherwise cause more problems than it solves; second, it is not clear, as Verizon points out, what "cooperatively" entails, which could result in conflicting assumptions about responsibility for ALI tables. Given that the parties already have an agreement touching on ALI, it is best to keep ALI issues separate from the ICA. Therefore Intrado's language is rejected.

H. Issue 15- Whether certain definitions related to the parties' provisions of 911/E-911 Service should be included in the Interconnection Agreement, and what definitions should be used.

1. Intrado's Position

Intrado states that there are five terms at issue here, as follows:

- ANI
- 911/E-911 Service Provider
- 911 Tandem/Selective Router
- Verizon 911 Tandem/Selective Router
- Verizon 911 Tandem/Selective Router
- Interconnection Wire Center

Intrado also states that "the issue between the parties concerning the definition of '911/E-911 Service Provider' and 'POI' deal with the location of the POI and are addressed under Issue 3." Intrado maintains that its definition of ANI is the accepted one, that Verizon does not object to its substance, and that the ICA should contain Intrado's definition of ANI because the term is referenced in Intrado's proposed ICA language.

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Intrado also claims that its definition of "911 Tandem/Selective Router", as follows:

a 911 Tandem/Selective Router in Verizon's network which receives 911/E-911 calls from Verizon end offices and routes those 911/E-911 calls to a PSAP.

is supported by the FCC, and by the common understanding that selective routers are used to transfer 911 calls between PSAPs. As Intrado concludes that its definition of a Tandem/Selective Router corresponds with the actual function of those devices, Intrado asks that its definition be accepted.

Intrado would strike Verizon's definitions of "Verizon 911 Tandem/Selective Router Interconnection Wire Center" and "Verizon 911 Tandem/Selective Router" as being unnecessary and repetitive of the general definition of those terms. Intrado states that if Verizon's proposed definitions are included in the ICA, Intrado-specific definitions should be included as well.

## 2. Verizon's Position

Verizon argues that an ANI definition is unnecessary in the ICA because Intrado's definition "is related to its proposed language expressing a requirement that Verizon deliver calls to Intrado with ANI," which, for reasons set out under Issue 3, Intrado asks the commission to deny. Verizon also urges that there is no need for a definition of ANI because, as a technical aspect of call transport, its definition may evolve. Ver. In. Br. at 52.

As to Intrado's definition of "911 Tandem/Selective Router", Verizon takes pains to show that the definition is



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inaccurate, or at least could be interpreted as inaccurate. Intrado's definition is also objectionable, according to Verizon, because it doesn't serve to locate the Tandem/Selective Router on Verizon's network, and "incorrectly suggests that a Verizon end office switch is a 911 Tandem/Selective Router." *Id.* At 53. Verizon claims that its own definition of Tandem/Selective Router- "switching or routing equipment that is used for routing 911/E-911 calls" - is broad enough to cover 911 calls moving to a PSAP or between PSAPS.

Finally, Verizon notes that a "Verizon 911 Tandem/Selective Interconnection Wire Center" refers to the building containing the wire center. Verizon concludes this definition is necessary because the wire center is referred to in the 911 attachment.

### 3. Analysis and Decision

Verizon takes an indirect route to its conclusion that an ANI definition should not appear in the ICA: such a definition would be unnecessary, Verizon argues, because language about ANI should be eliminated from the 911 attachment based on Verizon's arguments on Issue 3. It is not completely clear, however, that this Proposed Order's decision on Issue 3 has eliminated any need for ANI in provision of 911 service in Maryland.

Second, Verizon argues against Intrado's definition of ANI because the evolving requirement of law and practice may change the technical nature of 911 transports, thus making a specific ANI definition outdated. Verizon's argument here is about future

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possibilities, and may or may not be accurate. As neither of Verizon's arguments on ANI are fully persuasive, and the ANI definition proposed by Intrado is a standard one, Intrado's proposal is approved.

On the other definitions involved in this issue, Verizon is more persuasive. Verizon has shown that its definition of "Tandem/Selective Router" is more precise than Intrado's and "Verizon Tandem/Selective Router" adds further precision to a term, and for that reason is adopted. Finally, as the 911 attachment refers to the "Verizon 911 Tandem/Interconnection Wire Center," Verizon's definition of that term relating to its own facility is hereby adopted.

I. Issue 34- What Verizon will charge Intrado Comm. for 911/E-911 related services and what Intrado Comm. will charge Verizon for 911/E-911 related services and Issue 54-Should Intrado Comm.'s proposed interconnection rates be adopted?

1. Intrado's Position

Intrado objects to inclusion in Verizon's Maryland retail tariffs of any interconnection-related changes assessed by Verizon against Intrado. Intrado would have these changes assessed pursuant to Section 251/252 of the Act and included in the ICA. Intrado also seeks the rights to charge Verizon "port" and "termination" charges when Verizon interconnects with its network.

In support of its positions Intrado maintains that it is entitled to interconnection facilities and unbundled network elements at cost-based rates established pursuant to Sections 251 and 252 of the Act, which establish Total Element Long Run

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Incremental Cost (TELRIC) pricing for certain interconnection and network elements. Intrado claims that as §252(d) deals with interconnection, transport, and termination charges, those charges should be in the parties' interconnection agreement. Intrado sees placement of such charges in tariffs as Verizon's attempt to "circumvent" the requirement of §251/252. Intrado In. Br. at 51.

On its second point, Intrado claims that it must charge Verizon for interconnecting on its network even if Verizon uses its own facilities to interconnect with Intrado. Intrado asserts that its rates are reasonable, but states that it is "under no obligation to make any demonstration regarding its rates in a Section 252 proceeding." *Id.* At 54. Essentially, Intrado claims its right to impose on Verizon the same charges for interconnection as Verizon charges for interconnection on its network.

2. Verizon's Position

Verizon objects to Intrado's plan to charge Verizon for interconnection on Intrado's network because Verizon has concluded that by law the Point of Interconnection must be on Verizon's network, not on Intrado's. Verizon also objects to what it claims is the uncertainty surrounding Intrado's pricing proposal, which is as follows:

A. INTERCONNECTION

<u>Service or Element Description</u>	<u>Recurring Charges:</u>	<u>Non-Recurring Charge:</u>
Per DS1	<u>\$127.00</u>	<u>\$250.00</u>
Per DSO)	<u>\$ 40.00</u>	<u>\$250.00</u>

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App A, Pricing Attachment, Ver. In. Br. at 57.

Verizon maintains that this information does not tell what Intrado's charges are actually for, and neither this information nor the proposed contract language clarifies the matter. Ver. In. Br. at 57. Verizon further objects to Intrado's insistence on Telric pricing for "everything it may possibly order from Verizon" simply because Intrado is what it calls a 'co-carrier' interconnecting with Verizon." Ver.In.Br at 54. Verizon maintains that it is the FCC that determines which elements are entitled to TELRIC pricing, that the TELRIC prices for those elements are already included in pricing Attachment A to the Interconnection Agreement, and that Intrado cannot require that elements be priced at TELRIC levels simply on the grounds that Intrado needs the element for interconnection.

Verizon also rejects Intrado's argument that for proper business planning Intrado needs to know in advance the price of any elements it may want to purchase from Verizon. Verizon instead maintains that its tariffs provide reliable pricing information, and points out that tariffs cannot be changed at Verizon's whim, but that changes must be approved by the Commission. Verizon also objects to any suggestion that the interconnection agreement should include prices for any tariffed elements that Intrado might purchase. Verizon maintains that such a proposal by Intrado would be "unreasonable, infeasible, and unnecessary." *Id* at 56.

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3. Analysis and Decision

Issue 34 is another issue that depends in large part on resolution of the question: who interconnects with whom? This Proposed Order has ruled that, consistent with the Act, Intrado must connect with Verizon on Verizon's network. The Hearing Examiner agrees with the West Virginia arbitrator who found that there would be no Intrado charges to Verizon because the POI had to be on Verizon's network. Ver. In. Br at 57, quoting West Virginia Award, at 24. Consequently, any question of what Intrado will charge Verizon to connect on Intrado's network is irrelevant. There is also controversy over which functions purchased by Intrado from Verizon should be charged at TELRIC rates. There exists Federal precedent as to which telecommunications elements should be charged at TELRIC rates and which should be tariffed. Those precedents should govern here, as the record contains no reason to make exceptions.

Any remaining issues under this heading are decided consistently with the ruling in issue 35, below.

J. Issue 35- Whether all "applicable" tariff provisions shall be incorporated into the agreement; whether tariffed rates shall apply without a reference to the specific tariff; whether tariffed rates automatically supersede the rates contained in the pricing attachment, Appendix A without a reference to the specific tariff; and whether the Verizon proposed language in pricing attachment section 1.5 with regard to "TBD" rates should be included in the agreement.

1. Intrado's Position

Intrado contends that tariffed charges should not take precedence over prices contained in the Pricing Appendix attached

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to the ICA, and that new rates to be charged by Verizon should be developed "as part of the §§ 251/252 process with approval by the Commission." Matrix at 26.

Intrado's central argument is that Verizon has "refuse[d] to provide any details at all" about the services it will provide Intrado. Intrado rejects Verizon's proposal to include the prices Verizon proposed to charge Intrado in tariffed rates. Intrado contends that Verizon's charges for services not TELRIC priced must be specific, and not lumped together by a Verizon reference to "applicable" tariffs.

## 2. Verizon's Position

Verizon maintains that the dispute on this issue is essentially the same as that in Issue 34, and Verizon uses essentially the same argument here as there: [u]sing tariff rates helps ensure that Intrado receives the same non-discriminatory prices that others do", and tariffed rates protect Intrado because they are subject to Commission review.

## 3. Analysis and Decision

It is essential to both parties that the price of elements bought by one party from another be clearly stated. Verizon's proposal for disclosure includes language referring to "applicable tariff provisions" at "various places in the draft document." Verizon would reference tariff language in the General Terms and Conditions, Collocation Attachment, and the Pricing Attachment sections (among other, unspecified, sections) of the parties' agreement. Verizon also plans to replace "to be

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determined" references in the agreement with actual tariff rates "when they become effective, or [by] rates required, approved or allowed to go into effect by the Commission or the FCC." Ver, In. Br. at 59.

Verizon is correct that tariff rates are subject to Commission review in accordance with legal standards. Verizon is also correct that tariffed rates apply equally to all who are subject to them. Intrado's point that it must know specifically what Verizon will charge is also correct and must guide this decision. Therefore, tariffed prices will apply to Intrado's purchases from Verizon when the parties have not reached a separate agreement regarding the price of an item. Verizon will, in response to inquiries from Intrado, provide Intrado with a list of the tariffed prices of those items. Intrado must have, as soon as possible, a complete list of the tariffed prices it will be charged for tariffed items obtained from Verizon. Verizon shall also inform Intrado when it proposes to change the tariffed rate for an item or service Intrado has purchased. Because of the critical nature of 911 service, Verizon shall not assume that Intrado has adequate notice of proposed relevant tariff changes simply because Verizon has filed an application for such changes with the Commission. Therefore, with these qualifications, Verizon's proposed language is accepted.

**K. Issue 36- Whether Verizon may require Intrado to charge the same rates as, or lower rates than, the Verizon rates for the same services, facilities, and arrangements.**

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**1. Intrado's Position**

Intrado argues that it is a company independent of Verizon, and that therefore it may set its own rates independently of Verizon. Intrado also notes that New York, New Jersey, Connecticut and West Virginia have rejected capping Intrado's rates at Verizon's level. Intrado In. Br. at 57.

**2. Verizon's Position**

Verizon argues that its rates "have historically been subject to thorough Commission review" and therefore presumptively reasonable. Therefore, Verizon tacitly implies that Intrado's rates that are the same or less than Verizon's would also be deemed reasonable. Verizon further asserts that "bench-marking" CLEC rates to ILEC rates is both a standard part of its interconnection agreements and employed by commissions to ensure that prices changed by CLECs, such as Intrado, are reasonable. For example, Verizon cites FCC and Maryland requirements that CLEC interstate access rates be benchmarked to competing ILEC rates. Ver. In. Br. at 60-61. Verizon asks that the Commission adopt its proposed contract language to prevent Intrado from charging more for its elements than Verizon unless it can show that its costs for those elements are greater than Verizon's.

**3. Analysis and Decision**

Intrado is a company separate from Verizon, and at this point in Maryland, a potential provider of niche services. It should not be expected that its elements would be priced identically to, or even benchmarked to, Verizon's prices. If



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Verizon is dissatisfied with Intrado's prices, it may present evidence to the Commission seeking their reduction. Until then, there is no evidence that Intrado's prices should be only less than or equal to Verizon's, and Intrado's position is adopted.

L. Issue 46- Should Intrado have the right to have the Agreement amended to incorporate provisions permitting it to exchange traffic other than 911/E-911 calls?

1. Intrado's Position

Intrado proposes that, as it may decide to offer additional telephone exchange services in Maryland, it should be allowed to develop whatever interconnection agreement exists between it and Verizon without having to re-negotiate terms and conditions decided in the present case. To support its position, Intrado refers to the FCC's finding that carriers must negotiate in good faith, and not attempt to arbitrate issues already decided "solely to increase another party's costs." Intrado also notes that the parties have already agreed to provisions allowing them to refer issues to the Commission, or other adjudicator, if resolution of the issue(s) is not possible otherwise. Intrado sees the opportunity for referral of unresolved issues to the Commission as an opportunity for Verizon to change the contract language to which it objects.

2. Verizon's Position

Verizon objects to Intrado's proposed language because Verizon concludes that the "language would provide Intrado the unilateral right to an amendment, outside of the [agreement's]



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change of law provisions" Ver. In Br. at 61. Verizon further argues that the current arbitration is based only on Intrado's request to provide 911/E-911 service to PSAPs in Maryland. As such, Verizon claims the negotiations between it and Intrado "assumed a much narrower scope of services and operation than the usual agreement" with a full service CLEC. Verizon further objects to Intrado trying to retain the benefit of all negotiated provisions in the current contract, while obtaining the unilateral right to re-negotiate other provisions. Ver. In. Br. at 62.

**3. Analysis and Decision**

It is impractical on this record to determine which of the provisions from the current negotiation would be identical in nature-and therefore presumably identical or nearly identical in price-when and if Intrado decides to offer full interconnection service in Maryland. The passage of time alone could render prices negotiated now invalid. It is also unclear what percentage of existing provisions and services would remain the same or require re-negotiation if Intrado became a full-service CLEC in Maryland. Given these uncertainties, and given that Intrado, as a CLEC, would have interconnection rights- and Verizon would have negotiating restraints - under the Act, it is reasonable, and hereby decided, to allow negotiation of the price of necessary elements from the beginning if Intrado does seek to interconnect with Intrado as a CLEC. This ruling; however, is not permission for Verizon to assume that any and all elements necessary for 911 interconnection,

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and 911 interconnection only, would be automatically opened for renegotiation if Intrado seeks status as a CLEC.

M. Issue 47- Should the Verizon- Proposed Term "a caller" be used to identify what entity is dialing 911, or should this term be deleted as proposed by Intrado?

**1. Intrado's Position**

Intrado claims that Verizon insistence on including the word "caller" in a general description of "911/E-911 "arrangements" is an attempt to limit 911 arrangements to fixed line subscriber dial tone. Intrado In. Br. at 60. Intrado claims Verizon admitted as much in the Ohio arbitration (Ohio Case No. 08-198-TP-ARB), and that Verizon's language would not permit 911 calls from wireless devices or interconnected VOIP services to be completed to Intrado's PSAP customers. Intrado In. Br. at 60.

**2. Verizon's Position**

Verizon simply contends that no entities other than a "caller" would be calling 911. Verizon's end user customers become "callers" when they place a 911 call, according to Verizon, and use of the term in the Agreement provides clarity.

**3. Analysis and Decision**

While it is unlikely, given current technology, that Verizon would or could limit Intrado to landline only service, the Hearing Examiner nonetheless sees the word "caller" as possibly being restrictive in an area where limiting access is inappropriate. Further, the sentence into which Verizon would insert "caller" is complete without it. Therefore, to ensure that there is the broadest possible access to 911 services, Intrado

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shall prevail on this issue. The sentence in question now reads:  
"911/E-911 arrangements provide access to the appropriate PSAP by  
dialing a 3 digit universal telephone number, '911'..." as proposed  
by Intrado.

N. Issue 49- Should the waiver of charges for 911 call transport,  
911 call transport facilities, ALI database, and MSAG, be  
qualified as proposed by Intrado Comm. by other provisions of  
the agreement?

1. Intrado's Position

Intrado maintains that the language at issue here, which  
states that Intrado shall not bill Verizon, nor Verizon be  
obligated to pay, any charge "[e]xcept as otherwise set forth in  
the Agreement or in Appendix A to the Pricing Attachment," is  
meant simply to allow the parties to levy on each other charges  
authorized in the Interconnection Agreement. Intrado specifically  
rejects any suggestion that it plans to bill Verizon for ALI  
database charges or Master Street Address Guide charges, unless  
these charges are explicitly permitted by the Interconnection  
Agreement. Intrado asserts that Verizon's proposal, by eliminating  
references to the agreement and its appendix, would prevent Intrado  
from imposing on Verizon "any" charges legitimately contained in  
those documents. Intrado claims that its language would permit  
parties to levy appropriate interconnection charges, including  
charges "when Verizon interconnects with Intrado comm's network to  
deliver 911 calls destined for an Intrado comm. served PSAP."  
Intrado In. Br. at 61.



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**2. Verizon's Position**

Verizon argues that Intrado's language is an unnecessary qualification, undermining the parties' agreement not to bill for transport of 911/E-911 calls. Further, Verizon especially objects to any opening that Intrado's qualifying language would give for Intrado to establish POIs on its network and require Verizon to interconnect on Intrado's network, which type of connection Verizon has consistently maintained is contrary to Federal law.

**3. Analysis and Decision**

This Proposed Order is clear that Federal law requires POIs to be on Verizon's network, not Intrado's. While Intrado's reference to charging Verizon for interconnection to a POI on Intrado's network is inoperative here, Intrado's language is otherwise unexceptionable. Authorizing charges contained in the agreement or appendix cannot authorize any charge that is otherwise prohibited in this Proposed Order or in the agreement. Therefore, as Intrado's proposed language can only permit the levying of legal charges, it is approved as useful to that extent.

**O. Issue 52- Should the reservation of rights to bill charges to 911 controlling authorities and PSAPs be qualified as proposed by Intrado by "to the extent permitted under the parties' tariffs and applicable law"?**

**1. Intrado's Position**

Intrado argues that its proposed language would ensure that neither Verizon nor Intrado could "operate outside commission-approved rates or Commission regulation for their retail services to PSAPs." Intrado In. Br. at 61. Intrado further claims that

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without its proposed language "either party could have the ability to bill Maryland public safety agencies for a range of services even if the party no longer provided those services." *Id.*

While Intrado claims that its language would not prevent Verizon from imposing lawful charges, Intrado seeks to protect itself against Verizon's imposing charges for services it does not provide to Intrado when Intrado is the designated 911/E-911 service provider. Therefore there would be a number of services that Verizon would no longer provide to Intrado, and for which Intrado would not be obligated to pay.

Intrado asserts that it does not seek, nor can it expect to, control Verizon's pricing. Intrado affirms that only the Commission can set parameters for Verizon's pricing, and that Intrado's language is intended to ensure that both it and Verizon operate within those parameters.

**2. Verizon's Position**

Verizon asserts that it obviously cannot charge for services it does not provide. Verizon maintains that Intrado's proposed language is an attempt to restrict Verizon's ability to charge a PSAP for services that it will continue to provide even when Intrado provides 911 services to that same PSAP. Verizon In. Br. at 64. Verizon urges that whether a party, such as either Verizon or Intrado, can bill PSAPs under Maryland law and tariffs is not a matter to be determined in the Interconnection Agreement. Verizon urges that it is rather a matter for the PSAPs and billing parties to work out under existing law.

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3. Analysis and Decision

This Proposed Order cannot base any decision on a conclusion that any party will charge for services it does not provide absent a contractual agreement requiring payment for a specific period whether services are provided for that entire period or not. Alternatively, whether Intrado, Verizon, or both provide service to a PSAP, each provider should receive payment for those services. Given these two principles- that carriers cannot charge for service not provided, but multiple carriers can charge for service provided- Intrado's language appears unobjectionable, and does not appear to change the meaning of existing laws. Along with the two principles stated above, it is hereby adopted.

P. Issue 53- Should 911 Attachment Section 2.5 be made reciprocal and qualified as proposed by Intrado Comm.?

1. Intrado's Position

Intrado objects to the following language proposed by Verizon:

Nothing in this Agreement shall be deemed to prevent Verizon from delivering 911/E-911 calls directly to a PSAP for which Intrado Comm is the 911/E-911 Service Provider.

Nothing in this Agreement shall be deemed to prevent Intrado Comm from delivering, by means of facilities provided by a person other than Verizon, 911/E-911 calls directly to a PSAP for which Verizon is the 911/E-911 Service Provider.

Intrado claims that Verizon's language would allow Verizon to bypass Intrado's selective router and deliver 911/E-911 calls directly from its end offices to a PSAP served by Intrado. Intrado

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objects to this possibility because it contends that only PSAPs should be able to decide which carrier's traffic is routed to them.

Intrado also objects to the lack of reciprocity in Verizon's proposed language. Under Verizon's language Intrado may not deliver calls to a Verizon served PSAP over Verizon's facilities, while Verizon may deliver calls to a PSAP served by Intrado over its own (Verizon's) network. Intrado seeks either to have all the language in question stricken, or to have the language made exactly reciprocal.

### **2. Verizon's Position**

Verizon sees the disputed language as an attempt to ensure that Verizon and Intrado may use their own facilities, or those of a third-party carrier, to deliver 911 calls to a PSAP served by the other carrier. Verizon claims that its language will permit PSAPs to use multiple service providers. Verizon sees Intrado's position as an attempt to obtain an exclusive service arrangement with a PSAP or prevent Verizon from providing and charging for services it may provide to a PSAP also served by Intrado. While Verizon maintains that the right to deliver calls to a PSAP is determined between that party and the PSAP, Verizon apparently concludes that its specific language in the ICA is also necessary to preserve that right.

### **3. Analysis and Decision**

In the critical area of 911 services PSAPs must be free to contract and receive services from as many 911 service providers as they require. Intrado's language will ensure that there is no



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ambiguity preventing service to a PSAP by either Verizon or Intrado, by whatever means. Of course, adoption of Intrado's language does not negate any ruling in this Proposed Order that Intrado must establish its POIs on Verizon's network, rather than vice versa.

**IIII. CONCLUSION**

Upon review of the record, I find the parties shall enter into an ICA in conformance with the decisions made herein on the disputed issues. As noted, the primary issue regarding POI accepts the Verizon position concerning establishment of POI's on the Verizon network, which decision influenced many of the other specific issues contested by the parties.

**V. ORDERED PARAGRAPHS**

IT IS THEREFORE, this 13th day of November, in the year Two Thousand Nine,

ORDERED: (1) That the interconnection agreement between Intrado and Verizon Maryland, Inc. shall include the decisions on contested issues reached in this Proposed Order.

(2) That all other motions are hereby denied.

(3) That this Proposed Order will become a final order of the Commission on December 15, 2009, unless before that date an appeal is noted with the Commission by any party to this proceeding as provided in Section 3-113(d)(2) of The Public

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Utility Companies Article, or the Commission modifies or reverses the Proposed Order or initiates further proceedings in this matter as provided in Section 3-114(c)(2) of The Public Utility Companies Article.

*Robert H. McGowan*

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Robert H. McGowan  
Hearing Examiner  
Public Service Commission of Maryland