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MEMORANDUM
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FROM: Steven M. Olea
Director
Utilities Division

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

DATE: July 26, 2012

RE: IN THE MATTER OF THE APPLICATION OF INTRADO COMMUNICATIONS, INC. FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE TO PROVIDE INTRASTATE TELECOMMUNICATIONS SERVICES. (DOCKET NO. T-20750A-10-0289)

Attached is the Staff Report for the above referenced Application as amended. The Applicant is applying for approval to provide the following services:

- Resold Local Exchange Telecommunications Services
- Facilities-Based Local Exchange Telecommunications Services
- Private Line Telecommunications Services

Staff is recommending approval of the amended Application with conditions.

SMO:LLM:red

Originator: Lori Morrison

Arizona Corporation Commission
DOCKETED

JUL 26 2012

DOCKETED BY

LJM

SERVICE LIST FOR: INTRADO COMMUNICATIONS, INC.
DOCKET NO. T-20750A-10-0289

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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

INTRADO COMMUNICATIONS, INC.

DOCKET NO. T-20750A-10-0289

IN THE MATTER OF THE APPLICATION OF
INTRADO COMMUNICATIONS, INC.
FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY
TO PROVIDE INTRASTATE TELECOMMUNICATIONS SERVICES.

JULY 26, 2012

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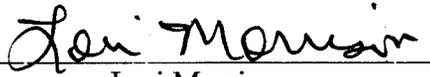
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Letter from the FCC dated September 8, 2006.....A

STAFF ACKNOWLEDGMENT

The Staff Report for Intrado Communications, Inc., Docket No. T-20750A-10-0289, was the responsibility of the Staff member listed below. Lori Morrison was responsible for the review and analysis of the Application for a Certificate of Convenience and Necessity to provide intrastate telecommunications services.

A handwritten signature in cursive script that reads "Lori Morrison". The signature is written in black ink and is positioned above a horizontal line.

Lori Morrison
Utilities Consultant

1. INTRODUCTION

On July 14, 2010, Intrado Communications, Inc. (“Intrado” or “Applicant” or “Company”) filed an Application for a Certificate of Convenience and Necessity (“CC&N”) to provide intrastate facilities-based long distance and facilities-based local exchange telecommunications services in Arizona. Specifically, Intrado seeks certification so that it may aggregate and transport emergency local, Voice over the Internet Protocol (“VoIP”), telemetric, PBX¹, and mobile E911 traffic, manage and transmit location and calling number data, and provide call routing management for the delivery of emergency calls to Public Safety Access Points (“PSAPs”) throughout Arizona.² The Applicant also petitioned the Arizona Corporation Commission (“Commission”) for a determination that its proposed services should be classified as competitive.

On August 3, 2010, Staff issued its First Set of Data Requests to Intrado. On August 30, 2010, Intrado provided information in response to Staff’s First Set of Data Requests via email.

On February 9, 2011, Staff issued its Second Set of Data Requests to Intrado. Intrado responded via email on January 11, 2012.

On November 16, 2011, Intrado filed an amended application to change its application to request to also provide resold and facilities-based local exchange telecommunications services and private line services in its provision of intrastate telecommunications services to 911 entities in Arizona. Intrado proposes to provide local exchange telecommunications services to 911 entities only.

On January 23, 2012, Intrado provided a replacement tariff and an updated version of Attachment E in response to Staff’s request.

Staff’s review of this Application addresses the overall fitness of the Applicant to receive a CC&N. Staff’s analysis also considers whether the Applicant’s services should be classified as competitive and if the Applicant’s initial rates are just and reasonable.

2. TECHNICAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

Intrado is a Colorado “C” corporation formed in 1979 under the name of SCC Communications, based out of 1601 Dry Creek Drive, Suite 250, Longmont Colorado. Intrado was acquired by West Corporation (“West”), a Delaware incorporated company, in April 2006. West Corporation’s headquarters are located at 11808 Miracle Hills Drive, Omaha, Nebraska. Intrado’s executives are also the key leaders of West Corporation, which has been in operation since 1986. Together these executives have over 112 years of telecommunications experience.

¹ PBX is a common abbreviation for Private Branch Exchange, a telephone system that serves a particular business or office.

² A Public Safety Access Point (PSAP) is a call center responsible for answering calls to an emergency telephone number for police, firefighting, and ambulance services.

Intrado proposes to offer resold and facilities-based local exchange services to 911 entities only. In addition, Intrado is proposing to offer the 911 Routing Service and 911 automatic location information (“ALI”) telecommunications services offered to emergency service districts or public safety answering points (“PSAPs”). Intrado’s proposed services are similar to the Universal Emergency Number Service – 911, offered by CenturyLink-QC. For example, when Intrado is the 911 Service Provider for a county or other jurisdictional area covered by an emergency service district, 911 calls dialed by another carrier’s subscribers in the area served by Intrado’s customer are delivered from the central office that serves the party dialing 911 directly to Intrado’s 911 network. Based on the end user’s automatic number identification (“ANI”), Intrado’s switching facilities (i.e., selective routers) route the 911 calls to the appropriate PSAP.³ Further, Intrado has indicated that certification will enable Intrado to acquire and manage Pseudo Automatic Number Identification (“pANI”)⁴ resources essential for routing emergency calls, pursuant to the Federal Communications Commission’s (“FCC’s”) directive of September 8, 2006⁵. To get interconnection agreements, Intrado seeks Competitive Local Exchange Carrier (“CLEC”) certification.

As of December 2011, Intrado had been granted certification in forty-three (43) jurisdictions⁶. Currently, Intrado is providing service in six of these states.⁷

Based on the above information, Staff believes Intrado possesses the technical capabilities to provide the services it is requesting the authority to provide.

3. FINANCIAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

Applicant will depend on the financial resources of its parent, West Corporation (“West”), and provided West Corporation’s Form 10-K financial report filed with the Securities and Exchange Commission (“SEC”) for years ending December 31, 2009 and 2010. West’s unaudited financial statement lists total assets of \$3.045 billion; total stockholders deficit of \$2.425 billion; and net income of \$88.229 million for end of year 2009. West’s unaudited financial statement lists total assets of \$3.005 billion; total stockholders deficit of \$2.544 billion; and net income of \$60.304 million for end of year 2010.

Applicant states in its proposed Local Exchange Services Tariff No. 1 (Sections 2.5.6 and 2.5.7, Page 21) that it does not require advance payments or deposits from its 911 customers.

³ Response to STF 1.1.

⁴ Pseudo Automatic Number Identification (pANI) resources are non-dialable 10-digit numbers that function to assist with the routing of 911 and E911 calls.

⁵ Attachment A

⁶ Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

⁷ Florida, Nevada, North Carolina, Pennsylvania, Vermont and Virginia.

Intrado does not offer prepaid services. The Commission's current performance bond or irrevocable sight draft Letter of Credit ("performance bond/ISDLC") requirements are \$10,000 for resold long distance (for those resellers who collect deposits, advances or prepayments), \$25,000 for resold local exchange, \$100,000 for facilities-based long distance and \$100,000 for facilities-based local exchange services. Based on the services Applicant is requesting authority to provide, the minimum recommended performance bond or ISDLC should be \$125,000.

Staff recommends that Applicant procure either a performance bond or an ISDLC equal to \$125,000. If Applicant desires to discontinue service, it must file an Application with the Commission pursuant to A.A.C. R14-2-1107. Additionally, the Applicant must notify each of its customers and the Commission 60 days prior to filing an Application to discontinue service. Failure to meet this requirement should result in forfeiture of the Applicant's performance bond or ISDLC.

Staff recommends that proof of the above-mentioned performance bond or ISDLC be docketed within 90 days of the effective date of a Decision in this matter or 10 days before the first customer is served, whichever comes earlier. The original performance bond or ISDLC should be filed with the Commission's Business Office and 13 copies of the performance bond or ISDLC be filed with Docket Control, as a compliance item in this docket. The Commission may draw on the performance bond or ISDLC on behalf of and for the sole benefit of Applicant's customers, if the Commission finds, in its discretion, that Applicant is in default of its obligations arising from its Certificate. The Commission may use the bond or ISDLC funds, as appropriate, to protect Applicant's customers and the public interest and take any and all actions the Commission deems necessary, in its discretion, including, but not limited to, returning prepayments or deposits collected from Applicant's customers.

4. ESTABLISHING RATES AND CHARGES

Applicant would be providing service in areas where an incumbent local exchange carrier ("ILEC"), along with various CLECs and interexchange carriers ("IXCs") are providing telephone service. Therefore, the Applicant would have to compete with those providers in order to obtain subscribers to its services. The Applicant would be a new entrant and would face competition from both an incumbent provider and other competitive providers in offering service to its potential customers. Therefore, the Applicant would generally not be able to exert market power. Thus, the competitive process should result in rates that are just and reasonable.

In general, rates for competitive services are not set according to rate of return regulation. Intrado indicated that its net book value or fair value rate base will be zero. The rate to be ultimately charged by Applicant will be heavily influenced by the market. While Staff considered the fair value rate base information submitted by Applicant, it did not accord that information substantial weight in its analysis.

The rates proposed by this filing are for specialized services that have highly focused competition. Intrado will not provide service to residential end users. Intrado's customers will

be government agencies which typically negotiate contract rates through a competitive process with the ultimate rates provided on an individual case basis (“ICB”) by Intrado.

Staff has reviewed the proposed rates to be charged by the Applicant. Intrado’s rates are for specialized services that have highly focused competition and the services are targeted for government agencies. These government agencies have ample resources and bargaining power to protect their business interests while negotiating for the best market prices for services. The rate charged for a service may not be less than Applicant’s total service long-run incremental cost of providing the service pursuant to A.A.C. R14-2-1109. Therefore, Staff believes that Intrado’s proposed rates are just and reasonable.

5. REVIEW OF COMPLAINT INFORMATION

Applicant indicated in response to Staff Data Request STF 2.5 that it has had two applications for service denied. On March 14, 2001, the New Hampshire Public Utilities Commission, denied SCC Communications’ (now Intrado Communications Inc.) application for a certificate of public convenience and necessity (“CPCN”), without prejudice, after finding that the services SCC proposed to offer at that time (limited to aggregation and transport of 911 emergency calls) were not services for which a CPCN was required, pursuant to New Hampshire PUC Rule 1306.01. On March 15, 2002, the Iowa Utilities Board denied an application for a CPCN by Intrado, without prejudice. The services proposed by Intrado at that time were limited to aggregation and transport of 911 emergency calls and were not services the Iowa Utilities Board determined that it regulated, pursuant to Iowa Code §476.29. In each case, New Hampshire and Iowa, the respective Commissions found that Intrado was a “telecommunications carrier” pursuant to 47 USC §251 and thereby entitled to interconnection with incumbent local exchange carriers, and Intrado was allowed to re-file applications to offer a service regulated by the Commission. Staff did not find any additional instances of denied applications.

Applicant indicated in response to Staff Data Request STF 2.6 that it had not had its authority to provide service revoked in any state. Staff did not find any instances of revocation of authority to provide service. Applicant indicated in its application that none of its officers, directors or partners have been or are currently involved any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency or law enforcement agency. Staff has found no instances of any formal or informal complaint proceedings involving Applicant or any of its officers, directors or managers.

In response to section (A-12) of the Application, Intrado indicates it was involved in two civil cases in state courts, one in North Carolina and one in Ohio:

(1) Case 5:09-cv-00517-BR, *BellSouth Telecommunications, Inc. d/b/a AT&T North Carolina v. Finley, et al.*, Complaint for Declaratory and Injunctive Relief (E.D.N.C., filed Dec. 2, 2009). The case was an appeal by the Plaintiff (AT&T) of a decision by the Defendant the North Carolina Utilities Commission that Intrado’s Intelligent Emergency Network services does qualify as “telephone exchange service” as that term is defined in 47 U.S.C. §153(a). The U.S. District Court for the Eastern District

of North Carolina issued an Order on December 10, 2010, denying Plaintiff's (AT&T) motion for summary judgment, granting Defendant's (North Carolina Utilities Commission) motion for summary judgment, and affirming the Utilities Commission's Arbitration Order that determined Intrado's emergency services qualify as telephone exchange services under section 251(c) of the Telecommunication Act of 1996 (47 U.S.C. §251(c))⁸.

(2) Case No. 2:09-cv-00918-ALM-MRA, *The Ohio Telephone Company d/b/a AT&T Ohio v. Schriber, et al.*, Complaint (S.D. Ohio, filed Oct. 15, 2009). The case is an appeal by the Plaintiff (AT&T) of a decision by the Defendant the Public Utilities Commission of Ohio that Intrado's Intelligent Emergency Network services does qualify as "telephone exchange service" as that term is defined in 47 U.S.C. §153(a). On January 6, 2012, the U.S. District Court for the Southern District of Ohio Eastern Division issued an Opinion and Order affirming ". . . the arbitration award of the Public Utilities Commission of Ohio in all disputed respects." (Case: 2:09-cv-00918-ALM-MRA, p. 37)⁹.

Aside from these civil complaints, Staff has not found, as a result of its research, any information that indicates that the Applicant or any of its officers, directors, partners, or managers are currently or have been involved in any other civil or any criminal investigations within the last ten (10) years.

Intrado is currently providing service in five (5) jurisdictions – Florida, Nevada, North Carolina, Pennsylvania and Virginia. Staff contacted these five (5) jurisdictions to verify certification to provide service and to inquire about complaints. All five states advised that the Applicant was indeed authorized to provide service in their jurisdiction and that no complaints had been received about the Applicant. No complaint information filed against Intrado was found on the FCC's website. The Corporations Division of the Arizona Commission has indicated that Intrado is in good standing and the Consumer Services Section reports no complaints have been filed in Arizona.

6. COMPETITIVE SERVICES ANALYSIS FOR PRIVATE LINE SERVICES

6.1 Private Line Services

Private line service is a direct circuit or channel specifically dedicated to the use of an end user organization for the purpose of directly connecting two or more sites in a multi-site enterprise. Private line service provides a means by which customers may transmit and receive

⁸ Response to STF 2.11 and *BellSouth Telcomms., Inc. v. Finley*, 2010 U.S. Dist. LEXIS 131839 (E.D.N.C., Dec. 10, 2010), 52 Comm. Reg. (P&F) 1336.

⁹ Response to STF 2.11 and *The Ohio Telephone Company d/b/a AT&T Ohio v Public Utilities Commission of Ohio, et al.*, Case: 2:09-cv-00918-ALM-MRA, Doc #:49, Filed: 01/06/12: PAGEID #:1915

messages and data among various customer locations over facilities operated and provided by Applicant. Applicant is therefore engaged in providing telecommunications service for hire to the public, which fits the definition of a common carrier and a public service corporation. Staff believes the Commission has jurisdiction over the services to be provided by Intrado.

6.2 Description of Requested Services

Intrado proposes to provide private line service. Private line service is a direct circuit or channel specifically dedicated to the use of an end user organization for the purpose of directly connecting two or more sites in a multi-site enterprise.

6.3 A Description of the General Economic Conditions that exist that make the Relevant Market for the Service One that is Competitive.

Interexchange carriers (“IXCs”) hold a substantial share of the private line service market. Also, ILECs and a number of CLECs have been authorized to provide private line service. Applicant will be entering the market as an alternative provider of private line service and, as such, Applicant will have to compete with several existing companies in order to obtain customers.

6.4 The Number of Alternative Providers of the Service.

IXCs are providers of private line service in the State of Arizona. ILECs and a number of CLECs also provide private line service.

6.5 The Estimated Market Share Held by Each Alternative Provider of the Service.

IXCs and ILECs hold a substantial share of the private line market. CLECs likely have a smaller share of the private line market.

6.6 The Names and Addresses of Any Alternative Providers of the Service That Are Also Affiliates of the Telecommunications Applicant, As Defined In A.A.C. R14-2-801.

None.

6.7 The Ability of Alternative Providers to Make Functionally Equivalent or Substitute Services Readily Available At Competitive Rates, Terms and Conditions.

IXCs and ILECs have the ability to offer the same services that Applicant has requested in their respective service territories. Similarly, many of the CLECs offer substantially similar services.

7. LOCAL EXCHANGE CARRIER SPECIFIC ISSUES

Issues related to the provision of that Local Exchange service are discussed below.

7.1 Number Portability

The Commission has adopted rules to address number portability in a competitive telecommunications services market. Local exchange competition may not be vigorous if customers, especially business customers, must change their telephone numbers to take advantage of a competitive local exchange carrier's service offerings. Consistent with federal laws, federal rules and A.A.C. R14-2-1308(A), Applicant shall make number portability available to facilitate the ability of a customer to switch between authorized local carriers within a given wire center without changing their telephone number and without impairment to quality, functionality, reliability or convenience of use.

7.2 Provision of Basic Telephone Service and Universal Service

The Commission has adopted rules to address universal telephone service in Arizona. A.A.C. R14-2-1204(A) indicates that all telecommunications service providers that interconnect into the public switched network shall provide funding for the Arizona Universal Service Fund ("AUSF"). Applicant will make the necessary monthly payments required by A.A.C. R14-2-1204(B).

7.3 Quality of Service

Staff believes that Applicant should be ordered to abide by the quality of service standards that were approved by the Commission for Qwest (fka USWC now dba CenturyLink) in Docket No. T-01051B-93-0183 (Decision No. 59421). Because the penalties developed in that docket were initiated because Qwest's level of service was not satisfactory and Applicant does not have a similar history of service quality problems, Staff does not recommend that those penalties apply to Applicant. In the competitive market that Applicant wishes to enter, Applicant generally will have no market power and will be forced to provide a satisfactory level of service or risk losing its customers. Therefore, Staff believes that it is unnecessary to subject Applicant to those penalties at this time.

7.4 Access to Alternative Local Exchange Providers

Staff expects that there will be new entrant providers of local exchange service who will install the plant necessary to provide telephone service to, for example, a residential subdivision or an industrial park much like existing local exchange companies do today. There may be areas where Applicant installs the only local exchange service facilities. In the interest of providing competitive alternatives to Applicant's local exchange service customers, Staff recommends that Applicant be prohibited from barring access to alternative local exchange service providers who wish to serve such areas. This way, an alternative local exchange service provider may serve a customer if the customer so desires. Access to other providers should be provided pursuant to the provisions of the 1996 Telecommunications Act, the rules promulgated there under and Commission rules on interconnection and unbundling.

7.5 *911 Service*

The Commission has adopted rules to address 911 and E911 services in a competitive telecommunications services market. Applicant has certified that in accordance with A.A.C. R14-2-1201(6)(d) and Federal Communications Commission 47 CFR Sections 64.3001 and 64.3002, it will provide all customers with 911 and E911 service, where available, or will coordinate with ILECs and emergency service providers to provide 911 and E911 service.

7.6 *Custom Local Area Signaling Service*

Consistent with past Commission decisions, Applicant may offer Caller ID provided that per call and line blocking, with the capability to toggle between blocking and unblocking the transmission of the telephone number, are provided as options to which customers could subscribe with no charge. Also, Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated, indicating that the number has been blocked, must be offered.

8. COMPETITIVE SERVICES ANALYSIS FOR LOCAL EXCHANGE SERVICES

Applicant has petitioned the Commission for a determination that the services it is seeking to provide should be classified as competitive.

8.1 *A Description of The General Economic Conditions That Exist Which Makes The Relevant Market For The Service One That Is Competitive.*

The local exchange market that the Applicant seeks to enter is one in which a number of new CLECs have been authorized to provide local exchange service. At locations where ILECs provide local exchange service, the Applicant will be entering the market as an alternative provider of local exchange service and, as such, Applicant will have to compete with those companies in order to obtain customers. In areas where ILECs do not serve customers, the Applicant may have to convince developers to allow it to provide service to their developments.

8.2 *The Number of Alternative Providers of the Service.*

CenturyLink and various independent LECs are the primary providers of local exchange service in the State. Several CLECs and local exchange resellers are also providing local exchange service.

8.3 *The estimated market share held by each alternative provider of the service.*

Since CenturyLink and the independent LECs are the primary providers of local exchange service in the State, they have a large share of the market. Since the CLECs and local exchange resellers have only recently been authorized to offer service, they have limited market share.

8.4 *The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications Applicant, as defined in A.A.C. R14-2-801.*

None.

8.5 *The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions.*

ILECs have the ability to offer the same services that the Applicant has requested in their respective service territories. Similarly, many of the CLECs and local exchange resellers also offer substantially similar services.

8.6 *Other Indicators of Market Power, Which May Include Growth and Shifts in Market Share, Ease of Entry and Exit, and Any Affiliation Between and Among Alternative Providers of the Service(s).*

The local exchange service market is:

- a. One in which ILECs own networks that reach nearly every residence and business in their service territories. Competition exists in most urban markets, but to a lesser degree in rural areas of the state.
- b. One in which new entrants will be dependent upon ILECs:
 1. To terminate traffic to customers.
 2. To provide essential local exchange service elements until the entrant's own network has been built.
 3. For interconnection.
- c. One in which ILECs have had an existing relationship with their customers that the new entrants will have to overcome if they want to compete in the market and one in which new entrants do not have a long history with any customers.
- d. One in which most customers in more rural areas have few, if any, choices since there is generally only one provider of local exchange service in rural service territories.
- e. One in which the Applicant will not have the capability to adversely affect prices or restrict output to the detriment of telephone service subscribers.

9. RECOMMENDATIONS

The following sections contain the Staff recommendations on the application for a CC&N and Applicant's petition for a Commission determination that its proposed services should be classified as competitive.

9.1 Recommendations on the Application for A CC&N

Staff recommends that Applicant's amended application for a CC&N to provide intrastate telecommunications services, as listed in this Report, be granted. In addition, Staff recommends:

1. That Applicant complies with all Commission Rules, Orders and other requirements relevant to the provision of intrastate telecommunications services;
2. That Applicant complies with Federal laws, Federal rules and A.A.C. R14-2-1308(A), to make number portability available;
3. That Applicant abides by the quality of service standards that were approved by the Commission for Qwest in Docket No. T-01051B-93-0183;
4. That Applicant be prohibited from barring access to alternative local exchange service providers who wish to serve areas where Applicant is the only provider of local exchange service facilities;
5. That Applicant provides all customers with 911 and E911 service, where available, or will coordinate with ILECs and emergency service providers to provide 911 and E911 service in accordance with A.A.C. R14-2-120(6)(d) and Federal Communications Commission 47 CFR Sections 64.3001 and 64.3002;
6. That Applicant be required to notify the Commission immediately upon changes to Applicant's name, address or telephone number;
7. That Applicant cooperates with Commission investigations including, but not limited to customer complaints;
8. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from Applicant and has determined that its fair value rate base is zero. Staff has reviewed the rates to be charged by the Applicant and believes they are just and reasonable. The rates to be ultimately charged by Applicant will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by Applicant, the fair value information provided was not given substantial weight in this analysis;
9. In the event Applicant requests to discontinue and/or abandon its service are, it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107;
10. That Applicant offer Caller ID with the capability to toggle between blocking and unblocking the transmission of the telephone number at no charge;

11. That Applicant offer Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated;
12. Staff recommends that the Commission authorize Applicant to discount its rates and service charges to the marginal cost of providing the services.

Staff further recommends that Applicant be ordered to comply with the following. If it does not do so, Applicant's CC&N shall be null and void after due process.

1. Applicant shall docket conforming tariffs for each service within its CC&N within 365 days from the effective date of a decision in this matter or 30 days prior to providing service, whichever comes first. The tariffs submitted shall coincide with the application.
2. The Applicant shall:
 - a. Procure a performance bond or ISDLC in the amount of \$125,000.
 - b. File the original performance bond or ISDLC with the Commission's Business Office and 13 copies of the performance bond or ISDLC with Docket Control, as a compliance item in this docket, within 90 days of the effective date of a Decision in this matter or 10 days before the first customer is served, whichever comes earlier. The performance bond or ISDLC must remain in effect until further order of the Commission. The Commission may draw on the performance bond or ISDLC on behalf of and for the sole benefit of Applicant's customers, if the Commission finds, in its discretion, that Applicant is in default of its obligations arising from its Certificate. The Commission may use the performance bond or ISDLC funds, as appropriate, to protect Applicant's customers and the public interest and take any and all actions the Commission deems necessary, in its discretion, including, but not limited to returning prepayments or deposits collected from Applicant's customers.
 - c. As a compliance filing, Applicant shall notify the Commission that it has started providing service in Arizona within 30 days of the first customer being served.
3. Applicant shall abide by the Commission's adopted rules that address Universal Service in Arizona. A.A.C. R14-2-1204(A) indicates that all telecommunications services providers that interconnect into the public switched network shall provide funding for the AUSF. The Applicant will make the necessary monthly payments required by A.A.C. R14-2-1204(B).

9.2 *Recommendation on the Applicant's Petition to Have Proposed Services Classified As Competitive*

Staff believes that Applicant's proposed services should be classified as competitive. There are alternatives to Applicant's services. Applicant will have to convince customers to purchase its services, and Applicant has no ability to adversely affect the local exchange service markets. Therefore, Applicant currently has no market power in the local exchange service markets where alternative providers of telecommunications services exist. Staff therefore recommends that Applicant's proposed services be classified as competitive.



Federal Communications Commission
Washington, D.C. 20554

September 8, 2006

Thomas M. Koutsky
Chair, North American Numbering Council
c/o Phoenix Center for Advanced Legal and Economic Public Policy Studies
5335 Wisconsin Avenue, NW
Suite 440
Washington, D.C. 20015

Ms. Amy L. Putnam
Director, Number Pooling Services
NeuStar, Inc.
3519 North Fourth Street
Harrisburg, PA 17110

Dear Mr. Koutsky and Ms. Putnam:

This letter addresses a recommendation by the North American Numbering Council (NANC) that NeuStar, Inc. (NeuStar), the current Pooling Administrator, serve as the Interim Routing Number Authority (Interim RNA) for the pseudo Automatic Number Identification (p-ANI) codes¹ used for routing emergency calls.² After review of the materials supplied by the NANC, the Wireline Competition Bureau (Bureau) agrees with the NANC's recommendation and finds it would be in the public interest to assign NeuStar to be the Interim RNA. Furthermore, the Bureau concludes that the p-ANI administration function falls within the broad scope of NeuStar's existing Pooling Administration Contract.³ Accordingly, the Bureau hereby

¹ A p-ANI is a number, consisting of the same number of digits as Automatic Number Identification (ANI), that is not a North American Numbering Plan (NANP) telephone directory number and may be used in place of an ANI to convey special meaning to the selective router, public safety answering point (PSAP), and other elements of the 911 system. *See IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36, 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, 10252-53, para. 17 (2005) (*VoIP 911 Order*); 47 C.F.R. § 9.3.

² *See* Letter from Hoke Knox and Karen Mulberry, pANI Issues Management Group Co-Chairs, to Robert C. Atkinson, NANC Chair (Sept. 2, 2005) *in* Letter from Robert C. Atkinson, NANC Chair, to Thomas J. Navin, Chief, Wireline Competition Bureau, FCC (Sept. 8, 2005) (NANC Sept. 8 Letter); p-ANI Issues Management Group, NANC, pANI Interim Assignment Guidelines for ESQK (issued Sept. 1, 2005) (Initial Interim Guidelines) *in* NANC Sept. 8 Letter. The Initial Interim Guidelines were revised by the NANC on December 5, 2005. *See* Letter from Robert C. Atkinson, NANC Chair, to Thomas J. Navin, Chief, Wireline Competition Bureau, FCC (Jan. 5, 2005) at 2; p-ANI Issues Management Group, NANC, pANI Interim Assignment Guidelines for ESQK (revised Dec. 5, 2005) <[http://www.nanc-chair.org/docs/nowg/Jan06_pANI_Guidelines_\(Revised\).doc](http://www.nanc-chair.org/docs/nowg/Jan06_pANI_Guidelines_(Revised).doc)> (Interim Guidelines).

³ *See generally* Pooling Administrator - NeuStar, FCC Contract No. CON01000016, signed by Sonna Stampone, Contracting Officer, Federal Communications Commission (dated June 15, 2001) (Contract). We note that the Thousands-Block Pooling Contractor Technical Requirements are set forth in Section C of the Contract. *See id.*, Section C (Contract Technical Requirements).

directs NeuStar to perform the p-ANI administration function. NeuStar must perform this function in accordance with the NANC's Interim Guidelines and the instructions in this letter. This assignment is interim in nature until a permanent p-ANI solution is in place, the expiration of NeuStar's performance as Pooling Administrator, or further notice, whichever occurs first.

As you know, the Federal Communications Commission (FCC) ordered providers of interconnected voice over Internet Protocol (VoIP) service to supply their customers with enhanced 911 capabilities.⁴ The NANC proposes temporary measures for the administration and issuance of p-ANI resources. Specifically, the NANC recommends that NeuStar administer the p-ANI function on an interim basis until NANC's p-ANI Issue Management Group proposes a permanent recommendation. In addition, the NANC proposes Interim Guidelines that would apply to the Interim RNA's administration of p-ANI resources, and to entities that seek to obtain p-ANI from the Interim RNA.

The Bureau accepts, as set forth below, the NANC's proposed temporary measures for the administration and issuance of p-ANI resources. The Bureau recognizes, however, that a permanent solution to this issue will best serve the public interest. The Bureau therefore directs the NANC to advise the Bureau, no later than October 10, 2006, as to the date the NANC will recommend to the Bureau such a permanent solution.

The Bureau agrees with the NANC that NeuStar should serve as the Interim RNA. Given its experience as the Pooling Administrator, NeuStar is qualified to perform this role. Moreover, the Contract encompasses this additional function. The Contract in general assigns NeuStar responsibilities over assignment of thousands-block numbering resources – pools smaller than ten-thousands blocks or central office codes administered pursuant to other agreements.⁵ In addition, Section 2.5 of the Contract provides that the FCC “may issue rules, requirements, or policy directives in the future, which may increase, decrease or otherwise modify the functions to be performed by the contractor.”⁶ Section 2.5.1 further states that “the FCC, the NANC, and/or the [Industry Numbering Committee] may establish NANP numbering resource plans, administrative directives, assignment guidelines (including modifications to existing assignment guidelines) and procedures that may have an effect on the functions performed by the contractor.”⁷

The Bureau therefore directs NeuStar to serve as Interim RNA until: (1) a permanent p-ANI solution is in place; (2) the expiration of NeuStar's performance as Pooling Administrator; or (3) further notice, whichever occurs first. During this interim period, however, NeuStar is not the sole provisioner of p-ANI resources. Carriers or other entities that have been voluntarily providing p-ANI may continue to do so until a permanent solution is found.

⁴ See generally *VoIP 911 Order*, 20 FCC Rcd 10245.

⁵ Contract Technical Requirements, § 1.1.

⁶ *Id.*, § 2.5.

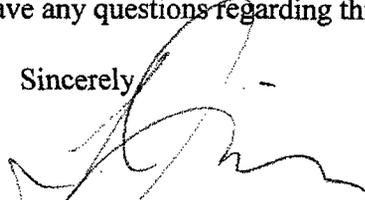
⁷ *Id.*, § 2.5.1; see also *id.*, § 1.4 (“The contractor shall also ensure that domestic numbering administration shall be effective.”).

The Bureau further requires NeuStar, in its capacity as Interim RNA, to comply with the NANC's Interim Guidelines, except as explained in this paragraph. Section 3.3 of the Interim Guidelines states that Part 52 of the FCC's rules⁸ (which governs numbering) does not apply to p-ANI except as provided in the Interim Guidelines.⁹ NeuStar shall not follow this section. Until the Commission determines that Part 52 does not apply to p-ANI or makes some other ruling on the topic, we require NeuStar to operate consistently with the requirements of Part 52.¹⁰ Accordingly, an entity seeking p-ANI from NeuStar must have appropriate authority to access numbering resources in general. The entity must be licensed or certified by the FCC or a state commission to operate as a telecommunications carrier and must provide NeuStar with evidence of such authority.¹¹ Thus, "Eligible Users," as defined in the Interim Guidelines, shall be no broader than indicated in this paragraph. Furthermore, NeuStar may assign p-ANI to VoIP service providers that can provide such evidence of carrier status as well as to carriers that provide wholesale 911-related services to VoIP service providers. Requests for waivers of this requirement may be filed by any entity that certifies that it fully remits 911 emergency service fees into all state and local 911 funds, and fully contributes into universal service mechanisms.

Finally, the Bureau directs NeuStar to submit a Change Order Proposal on this issue to begin the contract modification process. Section 2.5.3 of the Contract directs that "within a period of not more than 30 calendar days" from the date that the FCC modifies the functions to be performed by the contractor, "[t]he contractor shall ... provide the Contracting Officer, state PUCs, and the NANC with written notice regarding these changes and summarize the potential impact of the changes upon service and cost, if any."¹² Therefore, NeuStar must submit the Change Order Proposal within 30 calendar days of the date of this letter.

Please let me know if you have any questions regarding this matter.

Sincerely



Thomas J. Navin
Chief
Wireline Competition Bureau

⁸ 47 C.F.R. § 52.1 *et seq.*

⁹ Interim Guidelines, § 3.3.

¹⁰ *Cf. Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7591, paras. 31-32 (2000) (placing wireless E911 emergency service routing digits (ESRD/ESRK) in the general category of administrative numbers, which includes "any numbers used by carriers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards").

¹¹ *Id.* at 7615, para. 97.

¹² Contract Technical Requirements, § 2.5.3.