

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2016-79-C - ORDER NO. 2016-558

SEPTEMBER 6, 2016

IN RE: Complaint and Petition for Relief of South ) ORDER DENYING AND  
Carolina Net, Incorporated d/b/a Spirit ) DISMISSING  
Communications v. BellSouth ) COMPLAINT  
Telecommunications, LLC d/b/a AT&T South )  
Carolina )

## I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“the Commission”) for consideration of the February 19, 2016, South Carolina Net, Inc. d/b/a Spirit Communications (“Spirit”) Complaint against BellSouth Telecommunications, LLC d/b/a AT&T South Carolina (“AT&T South Carolina”), alleging a breach of the parties’ interconnection agreement (“ICA”). AT&T South Carolina filed its Answer to the Complaint on March 23, 2016.<sup>1</sup> Both parties filed two rounds of written testimony. Spirit submitted testimony by Michael Baldwin and Steven Covington, while AT&T South Carolina submitted testimony by J. Scott McPhee and Carl Albright, Jr. An evidentiary hearing was held on May 19, 2016. At that hearing, all of the prior written testimony and accompanying exhibits were admitted into the record and parties were allowed to cross-examine opposing witnesses. The Commission also asked questions of the witnesses.

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<sup>1</sup> Spirit’s Complaint also originally named AT&T North Carolina and AT&T Georgia as defendants. On March 23, 2016, AT&T North Carolina and AT&T Georgia moved to dismiss as defendants based on this Commission lacking jurisdiction over them. Spirit did not oppose that motion and AT&T Georgia and AT&T North Carolina were dismissed as defendants by a Hearing Officer Directive dated April 21, 2016.

At the hearing, Spirit was represented by Robin E. Tuttle, Esq. and Carrie L. DeVier, Esq., and AT&T South Carolina was represented by J. Tyson Covey, Esq., Lee E. Dixon, Esq., and Thomas M. Payne III, Esq. The Office of Regulatory Staff (“ORS”) was represented by Jeffrey M. Nelson, Esq. The Hearing Officer was David Butler. On July 20, 2016, the parties submitted post-hearing briefs and proposed orders.

## **II. DISCUSSION**

### **A. THE ICA AND THE DISPUTE**

Spirit provides local exchange service to end-users in South Carolina. Complaint, ¶ 1. As part of providing that service, Spirit interconnects with AT&T South Carolina’s network. Spirit obtains this interconnection through its ICA with AT&T South Carolina. Complaint at 1-2. Spirit adopted the generic ICA in 2012 that AT&T South Carolina makes available to all eligible carriers. Tr. 138 (Direct Testimony of J. Scott McPhee on Behalf of AT&T South Carolina, herein referred to as McPhee Direct at 6:17-18, 20-21).<sup>2</sup>

As a local exchange service provider, Spirit must ensure that its end-users are able to make 911 calls and use 911 (or E911)<sup>3</sup> service. In order to do that, Spirit must ensure that its end-users’ 911 calls get to the Selective Router of the entity that each Public Safety Answering Point (“PSAP”) has chosen as its 911 service provider. Tr. 140 (McPhee Direct at 8:1-4). Accordingly, in areas where the PSAP has chosen AT&T South Carolina as its

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<sup>2</sup> Citations to testimony will be to the page and line. Thus, for example, “6:20-21” refers to page 6, lines 20 to 21.

<sup>3</sup> As used herein, “911” refers to both 911 and E911 traffic.

911 service provider, Spirit must get its end-users' 911 calls to AT&T South Carolina's Selective Routers. Tr. 138 and 140 (McPhee Direct at 6:2-5, 8:2-5 and 14-17).

The parties' ICA covers this situation in Attachment 5, which sets forth the terms and conditions under which Spirit must connect with AT&T South Carolina to get Spirit's 911 calls to AT&T South Carolina's Selective Routers in areas where the PSAP has chosen AT&T South Carolina as its 911 service provider. Tr. 23 and 139 (Direct Testimony of Michael D. Baldwin on behalf of Spirit, herein referred to as Baldwin Direct at 6:13-18.; MCPhee Direct at 7:5-7). Under Attachment 5, Spirit must establish both facilities and trunks in order to get its end-users' 911 traffic to AT&T South Carolina's Selective Routers. Tr. 183 (Direct Testimony of Carl Albright, Jr. on behalf of AT&T South Carolina, herein referred to as Albright Direct at 5:3-6); ICA. Att. 5, § 4.1.1 ("CLEC will transport the appropriate 911 calls from each Point of Interconnection (POI) to the appropriate [AT&T South Carolina] E911 S[elective]R[outer] location."); *id.* § 4.2.5 ("CLEC shall maintain facility transport capacity sufficient to route 911 traffic over trunks dedicated to 911 Interconnection between the CLEC switch and the [AT&T South Carolina] E911 SR.").

After entering the ICA, Spirit established the necessary facilities and trunks by ordering and obtaining them from AT&T South Carolina. Tr. 25 (Baldwin Direct at 8:19-21). Those facilities and trunks remain in place and available for use today. Sometime around October 2013, however, Spirit decided to use facilities and trunks obtained from a third party, Bandwidth, to carry its end-users' 911 traffic to the AT&T South Carolina Selective Routers. Tr. 27 and 29 (Baldwin Direct at 10:11-18 and 12:11-13). Spirit also

placed some orders to disconnect some of the 911 trunks it had obtained from AT&T South Carolina, but AT&T South Carolina rejected those disconnect orders because the ICA requires Spirit to retain a certain number of 911 trunks from AT&T South Carolina. *Id.* at 12:18-23.<sup>4</sup> *See also* ICA, Att. 5, Section 4.2.3. Spirit's outside consultant on 911 matters advised Spirit that AT&T South Carolina would reject such trunk disconnect orders because the ICA did not allow such disconnects, but Spirit placed the disconnect orders anyway. McPhee Direct, Attachment A; *see also* Surrebuttal Testimony of J. Scott McPhee on behalf of AT&T South Carolina, herein referred to as McPhee Surrebuttal, Rebuttal Attachments A and B.

Spirit eventually filed a Complaint alleging that AT&T South Carolina's refusal to disconnect 911 trunks breached the ICA, and seeking a finding that it did not owe any charges for those 911 trunks back to the time of Spirit's first trunk disconnect order. Complaint at 9-10.

## **B. ANALYSIS**

### **1. The ICA.**

Spirit's Complaint deals exclusively with 911 trunks. Spirit contends that (i) the ICA does not require it to retain any of the 911 trunks it obtained from AT&T South Carolina, and (ii) it should not have to pay any monthly charges for those trunks. Complaint ¶¶ 11-18. The second part of that claim is moot, because AT&T South Carolina

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<sup>4</sup> Spirit has claimed that it also submitted disconnect orders for 911 facilities, but AT&T South Carolina has not located any and Spirit did not provide any such orders as exhibits.

does not impose any monthly (or other) recurring charges for 911 trunks, so there are no past or prospective 911 trunk charges at issue.<sup>5</sup> Tr. 146 (McPhee Direct at 14:4-11). As for the first part of the claim, the ICA clearly requires Spirit to maintain a minimum number of dedicated 911 trunks it obtains from AT&T South Carolina to directly connect Spirit's switch to AT&T South Carolina's Selective Routers.

Before going further, however, it is important to distinguish between *facilities* and *trunks*. Facilities are the high-capacity pipes (*e.g.*, DS1, DS3) that can be used to connect points on a network; trunks, by contrast, are the individual electronic channels (or circuits) that ride on a facility and actually complete the path for the traffic. Tr. 142, 181-183, 191 (McPhee Direct at 10:15-18; Albright Direct at 3:19 to 5:15; Albright Surrebuttal at 2:2-15). To use an analogy, facilities are like a highway and trunks are like the separate lanes on the highway. Trunks and facilities work together but are provided separately and at separate prices under separate contract terms. Tr. 183 and 184 (Albright Direct at 5:6 and 6:21-25). Here, for example, AT&T South Carolina does impose a charge for 911 *facilities* that Spirit leases from it, but does *not* impose a monthly charge for 911 *trunks* that Spirit obtains from it. Tr. 146 and 147 (McPhee Direct at 14:4 and 15:20-21).

Attachment 5 to the parties' ICA deals with both facilities for 911 traffic and trunks for 911 traffic. Facilities for 911 traffic are addressed in Section 3.3.2, which states that

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<sup>5</sup> AT&T South Carolina does recover an initial non-recurring charge when a trunk is first ordered and established, but Spirit has not challenged any of those charges.

Spirit “has the option” to purchase 911 transport facilities from either AT&T South Carolina or “from another provider” or to “us[e] [its] own facilities.”<sup>6</sup>

Trunks for transporting 911 traffic to AT&T South Carolina’s Selective Routers are addressed in Section 4 of Attachment 5 to the ICA, which, in relevant part, provides as follows (emphasis added):

4.2.3 CLEC shall order a minimum of two (2) one-way outgoing E911 Trunk(s) dedicated for originating 911 Emergency Service calls for each default PSAP or default ESN to interconnect to each appropriate AT&T-22STATE E911 SR, where applicable. Where Signaling System 7 (SS7) connectivity is available and required by the applicable E911 Customer, the Parties agree to implement Common Channel Signaling (CCS) trunking rather than Multi-Frequency (MF) trunking.

4.2.4 CLEC is responsible for ordering a separate E911 Trunk group from AT&T-22STATE for each county, default PSAP or other geographic area that the CLEC serves if the E911 Customer for such county or geographic area has a specified varying default routing condition. Where PSAPs do not have the technical capability to receive 10-digit ANI, E911 traffic must be transmitted over a separate trunk group specific to the underlying technology. CLEC will have administrative control for the purpose of issuing ASRs on this trunk group. Where the parties utilize SS7 signaling and the E911 network has the technology available, only one (1) E911 Trunk group shall be established to handle multiple NPAs within the local Exchange Area or LATA. If the E911 network does not have the appropriate technology available, a SS7 trunk group shall be established per NPA in the local Exchange Area or LATA. In addition, 911 traffic originating in one (1) NPA must be transmitted

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<sup>6</sup> Section 3.3.2 of Attachment 5 states in full:

3.3.2 AT&T-22STATE will provide facilities to interconnect the CLEC to the AT&T-22STATE’s E911SR, as specified in Attachment 02 -Network Interconnection of this Agreement or per the requirements set forth via the applicable state tariff. Additionally, CLEC has the option to secure interconnection facilities from another provider or provide such interconnection using their own facilities. If diverse facilities are requested by CLEC, AT&T-22STATE will provide such diversity where technically feasible, at standard applicable tariff rates.

over a separate 911 Trunk group from 911 traffic originating in any other NPA 911.

4.2.5 CLEC shall maintain facility transport capacity sufficient to route 911 traffic over trunks dedicated to 911 Interconnection between the CLEC switch and the AT&T-22STATE E911 SR.

4.2.6 CLEC shall order sufficient trunking to route CLEC's originating 911 calls to the designated AT&T-22STATE E911 SR.

Thus, under Section 4, Spirit must order and retain dedicated 911 trunks from AT&T South Carolina, which it obtains at no monthly charge. There is no language like that in Section 3.3.2 giving Spirit the “option” to elect not to obtain 911 trunks from AT&T South Carolina. Granted, the ICA does not prohibit Spirit from *also* obtaining and using 911 trunks from other providers, but it does have a baseline requirement that Spirit retain a minimum number of dedicated 911 trunks obtained from AT&T South Carolina that connect Spirit’s switch directly to AT&T South Carolina’s Selective Routers.

In short, under Attachment 5 to the ICA – which governs interconnection for 911 traffic – Spirit does have to pay for 911 facilities it obtains from AT&T South Carolina, but does not have to lease those facilities at all if it would rather get them elsewhere. By contrast, Spirit does not have to pay any monthly charge for the direct, dedicated 911 trunks it obtains from AT&T South Carolina, but does have to maintain a minimum number of such trunks.

## **2. Spirit’s Interpretation of the ICA**

Spirit argues that all the provisions in Attachment 5 to the ICA are “optional,” and therefore apply only if Spirit chooses to use AT&T South Carolina’s facilities and trunks

to send 911 traffic to AT&T South Carolina. Tr. 25 and 41 (Baldwin Direct at 8:11-15; Baldwin Rebuttal at 4:12-15). We disagree. Interconnecting with AT&T South Carolina for 911 traffic is not “optional” where a PSAP has chosen AT&T South Carolina as its 911 service provider (as many PSAPs have done). Tr. 140 and 146 (McPhee Direct at 8:1-4 and 14-19). In areas where the PSAP has chosen AT&T South Carolina as its 911 service provider, Spirit must interconnect with AT&T South Carolina in order to get its end-users’ 911 calls to that PSAP. *Id.* The only question then is how to connect the networks, and that is governed by Attachment 5 to the ICA.

Attachment 5 identifies what is optional and what is not. In particular, Section 3.3.2 of Attachment 5 expressly gives Spirit the “option” to obtain 911 transport *facilities* from “another provider” rather than from AT&T South Carolina. Section 4 of Attachment 5, by contrast, does not say Spirit has the “option” of not obtaining any 911 trunks from AT&T South Carolina. Rather, it states that Spirit “shall order” such trunks from AT&T South Carolina and “is responsible for ordering” such trunks. Those actions are not “optional.” To the contrary, under Section 3.1.1 of the ICA’s General Terms and Conditions, the word “shall” “connotes a mandatory requirement.”

Even though interconnection for 911 traffic is specifically covered by the detailed terms in Attachment 5 of the ICA, all of Spirit’s contract interpretation arguments rely on provisions outside of Attachment 5. Under the contract-interpretation principle that the specific controls over the general, none of those provisions outside Attachment 5 can override the terms of Attachment 5 itself. 11 Williston on Contracts § 32.10 (4<sup>th</sup> ed., May

2016 update). Nor, as explained below, do any of those outside provisions cast light on the proper interpretation of Attachment 5.

Spirit first relies on Section 42.1 of the ICA's General Terms and Conditions ("GTC"). Section 42.1 of the GTCs simply states that the ICA is the arrangement under which the parties "may purchase from each other Interconnection Services." The entirety of the provision reads as follows:

42.0 Scope of Agreement

42.1 This Agreement is intended to describe and enable specific Interconnection and compensation arrangements between the Parties. This Agreement is the arrangement under which the Parties may purchase from each other Interconnection Services. Except as agreed upon in writing, neither Party shall be required to provide the other Party a function, facility, product, service or arrangement described in the Act that is not expressly provided herein.

The title of GTC Section 42, "Scope of Agreement" indicates that Section 42.1 is not about any specific interconnection terms and conditions, but rather is a general statement that interconnection will be provided as contained within the ICA, and that "specific Interconnection and compensation arrangements between the Parties" will be covered by other, more specific parts of the ICA. GTC Section 42.1 also makes clear that it is "[t]his Agreement," rather than another, under which the parties may purchase "Interconnection Services" from each other.

Spirit contends that the use of "may" in Section 42.1 means that each and every provision in the ICA is "optional." Tr. 26 (Baldwin Direct at 9:6-8). We disagree, especially in the 911 context. When a PSAP selects AT&T South Carolina as its 911 services provider, Spirit and every other CLEC sending 911 traffic to that PSAP must

interconnect with AT&T South Carolina's Selective Routers. Tr. 140 (McPhee Direct at 8:1-4 and 14-19). There is no other option for getting 911 traffic to that PSAP. The issue in this case is not whether Spirit must interconnect with AT&T South Carolina where AT&T South Carolina is the 911 service provider, because it indisputably must. The only question is what facilities and trunks Spirit must maintain to transport its end-users' 911 traffic to AT&T South Carolina's Selective Routers. Attachment 5 answers that question.

Spirit next relies on Section 4.1.2 of ICA Attachment 2 – ISP – Network Interconnection. Tr. 42 and 76 (Baldwin Rebuttal at 5 n.3; Covington Rebuttal at 2:1-6). Spirit argues that the word “can” in Section 4.1.2 of Attachment 2 makes all of Attachment 5 “optional” because it says that trunk groups for ancillary services like E911 “can be established.” Tr. 42 (Baldwin Rebuttal at 5:12-13 & n.3). But that provision has no bearing here. First, Section 4.1.2 is in Attachment 2 to the ICA, and it is Attachment 5 that specifically governs interconnection to AT&T South Carolina for 911 traffic. Second, Section 4.1.2 of Attachment 2 states as follows:

4.1.2 Trunk groups for ancillary services (e.g., OS/DA, BLVI, High Volume Call In and E911) and Meet Point or Third Party (as appropriate) Trunk Groups can be established between CLEC's switch and the appropriate AT&T-22STATE Tandem Switch *as further provided in this Section 4.0.* (Emphasis added).

As the italicized phrase shows, the specific ICA terms governing any specific ancillary service are “as further provided in this Section 4.0.” One therefore must look farther than Section 4.1.2 before deciding whether an ancillary service is optional. In particular, to find terms relevant to 911 traffic one must look to Section 4.3.8, which states as follows:

4.3.8 E911 Trunk Group

4.3.8.1 Attachment 05 – 911/E911 specifies E911 trunk group requirements.

This confirms that the ICA’s “trunk group requirements” for 911 traffic are in Attachment 5, not Attachment 2.

Spirit also argues that Section 4.1.2 of Attachment 2 makes all ancillary services optional. Tr. 42 (Baldwin Rebuttal at 5:11-12). But that view overlooks the actual language in the portions of the ICA that deal with each ancillary service. For example, Busy Line Verification is an optional service because the ICA provides for trunking for that service when a CLEC “wishes” to have the service. ICA, Att. 6, § 3.3.6.3.1. By contrast, interconnection for 911 traffic is not optional where AT&T South Carolina is the PSAP’s chosen 911 service provider, so the CLEC (Spirit) must connect to AT&T South Carolina’s Selective Routers. Attachment 5 includes the terms that Spirit agreed to for making that connection, including requirements to obtain 911 trunks from AT&T South Carolina that connect Spirit’s switch to AT&T South Carolina’s Selective Routers, and the ICA states that Spirit “shall” and “will” implement those requirements. ICA, Att. 5, §§ 4.1.1, 4.2.3, 4.2.4, 4.2.5, 4.2.6.<sup>7</sup>

At the evidentiary hearing Spirit argued that Attachment 5 refers only to “dedicated” 911 trunks, which it interprets to mean trunks that carry 911 traffic only, and that Spirit can maintain dedicated 911 trunks by leasing them from Bandwidth rather than AT&T South Carolina. We disagree.

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<sup>7</sup> At the hearing Spirit also tried to argue for the first time that the terms “trunks” and “facilities” are too vague for Spirit to have understood the ICA. We disagree. The ICA uses the terms differently and Spirit’s Mr. Covington admitted he knew the basic difference. Tr. 77 (Covington Rebuttal at 3:11-23).

To begin with, in discussing this point it is clear that Spirit is relying on it having dedicated *facilities* from Bandwidth to AT&T South Carolina’s Selective Routers. Tr. 92-93. But facilities are different from trunks, and trunks are what is at issue here.

More importantly, a “dedicated” trunk is one dedicated to a single carrier (and in this case, one dedicated to a single carrier exclusively for that carrier’s 911 traffic). *See Newton’s Telecom Dictionary* at 296 (23d ed. 2007) (defining “dedicated channel or circuit” and “dedicated circuit” as one designated for “exclusive use” by “an end user” or “specified users”— not as just being dedicated to a particular type of traffic); *Access Charge Reform*, 12 FCC Rcd. 15982, ¶ 175 (1997) (“like other dedicated trunks, the LEC must provision the trunk for the exclusive use of one [carrier]”). Indeed, AT&T South Carolina states that the purpose of the “dedicated” trunk requirement in Section 4 of Attachment 5 is to ensure that there will always be at least some direct 911 trunks available that are exclusively dedicated to Spirit’s 911 traffic going to AT&T South Carolina (and sized to handle that traffic, *see* ICA Att. 5, §§ 4.2.6 and 4.2.8), which means there will always be a reserved path available for Spirit’s 911 calls. Tr. 144 (McPhee Direct at 12:9-11) (“Thus, Spirit is contractually obligated to order and obtain dedicated 911 trunks (meaning trunks dedicated exclusively to Spirit’s 911 traffic) from AT&T South Carolina that directly connect Spirit’s end office switch and AT&T South Carolina’s Selective Routers.”); Tr. 184 (Albright Direct at 6:15-18) (Attachment 5’s dedicated trunking requirement “ensures a direct transmission path between the carriers that is dedicated to Spirit’s 911 traffic”). The trunks Spirit obtains from Bandwidth, however, intermingle 911 calls from multiple carriers. Tr. 93-94. Trunks that mingle Spirit’s 911 traffic with other carriers’ 911 traffic

do not qualify as “dedicated” trunks as required by the ICA. ICA, Att. 5, §§ 4.2.3 and 4.2.5.

In addition, Spirit’s position overlooks the other terms and requirements of Attachment 5, including that the 911 trunks run “between the [Spirit] switch and the [AT&T South Carolina] E911 SR.” ICA, Att. 5, §§ 4.2.5 and 4.2.8. In Spirit’s arrangement with Bandwidth, there is not a single trunk (dedicated or otherwise) from Spirit’s switch to AT&T South Carolina’s Selective Router, but rather one trunk from Spirit to Bandwidth that is then switched onto a second, different trunk (and commingled with other carriers’ 911 traffic) to get from Bandwidth to AT&T South Carolina’s Selective Router. Tr. 203. Only trunks obtained from AT&T South Carolina can make that kind of direct endpoint-to-endpoint connection (even if they ride over *facilities* owned by others).

**C. Spirit’s Policy Arguments.**

Finally, Spirit appears to argue that it should prevail based on policy concerns. This case, however, is about an alleged breach of contract, and therefore must be governed by the principles of contract. Under 47 U.S.C. § 252(a) the ICA is “binding” on both parties, regardless of whether Spirit thinks that the ICA’s requirements reflect good “policy” in light of new or different options available in the marketplace.

Spirit also alleges that other incumbent LECs do not require competing LECs to maintain direct, dedicated trunks to the incumbent for 911 traffic. Tr. 71-72 (Covington Direct at 14:15 to 15:2). But that is not relevant. The fact that other incumbent LECs may offer different terms in their interconnection agreement is not surprising, and it sheds no

light on how to interpret the ICA that Spirit agreed to with AT&T South Carolina. There is no requirement that all ICAs be alike.

Ultimately, Spirit's primary goal is to stop paying for the 911 facilities it currently obtains from AT&T South Carolina. AT&T South Carolina's goal is to require Spirit to abide by the terms of its ICA. There appears to be an easy way to do both. Specifically, given the terms of the ICA, the only real question is whether Spirit can have the 911 trunks it obtains from AT&T South Carolina ride on facilities provided by an entity other than AT&T South Carolina. If Spirit can do that, it can disconnect the 911 facilities it obtains from AT&T South Carolina and stop paying the \$5,000 in monthly charges for those facilities. AT&T South Carolina states that it has an established process for Spirit to do so. As AT&T South Carolina explained, Spirit can move the dedicated 911 trunks it obtains from AT&T South Carolina over to non-AT&T facilities that form a direct path from Spirit's switch to the AT&T South Carolina Selective Routers, thereby complying with the ICA. It can thereafter disconnect the 911 facilities it obtains from AT&T South Carolina and stop paying the monthly charges on those facilities. Tr. 185-186 and 192-193 (Albright Direct at 7:6 to 8:16; Albright Surrebuttal at 3:3 to 4:5) and Rebuttal Attachments A and B. Spirit could do this by using the established AT&T South Carolina process referred to as a trunk re-home, as AT&T South Carolina states other competing carriers have done. Tr. 185 and 192 (Albright Direct at 7:11-19; Albright Surrebuttal at 3:3-8).

Alternatively, if Spirit does not wish to use the trunk re-home process, it could seek to negotiate a new agreement with AT&T South Carolina to replace the terms in its ICA, which is currently in "evergreen" status. Tr. 201:17.

### III. FINDINGS OF FACT

1. Spirit provides local exchange telephone service in South Carolina, and its end-user customers can make 911 emergency telephone calls.

2. In order to provide local exchange service to its customers, Spirit interconnects its network to the network of AT&T South Carolina.

3. Spirit and AT&T South Carolina are parties to an interconnection agreement signed in 2012 and approved by the Commission.

4. Pursuant to the ICA, Spirit has obtained, from AT&T South Carolina, both trunks and facilities used to carry 911 traffic from Spirit's end-users to AT&T South Carolina's Selective Routers ("SRs") in areas where the Public Safety Answering Point ("PSAP") has chosen AT&T as its 911 service provider. Those trunks and facilities are still in place.

5. "Facilities" and "trunks" are different. Trunks ride on facilities but are not the same thing as facilities.

6. AT&T South Carolina does not bill Spirit for any monthly recurring charge on trunks used for 911 traffic. AT&T South Carolina does bill Spirit a monthly recurring charge for the facilities used for 911 traffic.

7. Spirit also has obtained facilities and trunks from another company, Bandwidth.com ("Bandwidth") to carry 911 traffic to AT&T South Carolina's Selective Routers.

8. In the arrangement with Bandwidth, Spirit must transport 911 traffic from Spirit's switch to Bandwidth's equipment at another location.

9. AT&T South Carolina has a process by which Spirit could “re-home” the 911 trunks Spirit obtains from AT&T South Carolina to ride on the 911 facilities Spirit obtains from Bandwidth and to connect Spirit’s switch(es) to AT&T South Carolina’s Selective Routers. If Spirit used this process, it could then disconnect and cease paying for the 911 facilities it has obtained from AT&T South Carolina under the ICA.

#### **IV. CONCLUSIONS OF LAW**

1. The ICA is binding on both Spirit and AT&T South Carolina.
2. A local exchange service provider is responsible for ensuring that emergency 911 calls from its end-user customers reach the Selective Routers of each PSAP’s chosen 911 service provider.
3. Attachment 5 to the ICA governs Spirit’s interconnection to AT&T South Carolina for the purpose of delivering Spirit’s customers 911 traffic to AT&T South Carolina in areas where AT&T South Carolina is a PSAP’s designated 911 service provider.
4. Attachment 5 to the ICA allows Sprit to obtain facilities for 911 traffic from AT&T South Carolina or another provider, or Spirit may self-provide the facilities.
5. Attachment 5 of the ICA requires Spirit to maintain at least a minimum number of dedicated 911 trunks that it must necessarily obtain from AT&T South Carolina that connect Spirit’s switch to AT&T South Carolina’s Selective Routers, even if those trunks ride on a non-AT&T South Carolina provider’s facilities.
6. Accordingly, AT&T South Carolina did not breach the ICA by declining to disconnect the 911 trunks that Spirit has obtained from AT&T South Carolina.

**V. ORDER**

For all the reasons stated, we deny and dismiss Spirit's Complaint. This Order shall remain in full force and effect until further order of the Commission.

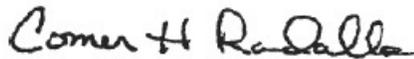
BY ORDER OF THE COMMISSION:



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Swain E. Whitfield, Chairman

ATTEST:



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Comer H. Randall, Vice Chairman