

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications)	PS Docket No. 15-80
)	
Improving 911 Reliability)	PS Docket No. 13-75
)	
New Part 4 of Commission’s Rules Concerning Disruptions to Communications)	ET Docket No. 04-35
)	
)	OMB Control No. 3060-0484

COMMENTS OF INTRADO LIFE & SAFETY, INC.

Intrado Life & Safety, Inc. (Intrado) respectfully submits these comments in response to the Commission’s Paperwork Reduction Act (PRA) Notice and Request for Comment¹ regarding information collection requirements related to the Commission’s *Second Report and Order* in the captioned dockets.²

INTRODUCTION

For several decades, Intrado has provided 911 services as a vendor to Originating Service Providers (OSPs), including many wireless, wireline and VoIP carriers who are all directly

¹ 88 FR 77093-94 (OMB Collection No. 3060-0484) (Nov. 8, 2023) (PRA Notice). Intrado’s comments are limited to outages that would be required to be notified to 911 special facilities under the *Second Report and Order* and are not intended to address the Commission’s decision in *Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline*, PS Docket Nos. 23-5, 15-80, WC Docket No. 18-336 (FCC-23-57) (rel. July 21, 2023).

² *Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications; Improving 911 Reliability; New Part 4 of Commission’s Rules Concerning Disruptions to Communications*, Second Report and Order, PS Docket Nos. 15-80, 13-75, ET Docket No. 04-35, 37 FCC Rcd 13847 (2022) (*Second Report and Order*); see also *Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications; Improving 911 Reliability; New Part 4 of Commission’s Rules Concerning Disruptions to Communications*, Third Notice of Proposed Rulemaking, FCC No. 21-45, PS Docket Nos. 15-80, 13-75, ET Docket No. 04-35, 36 FCC Rcd 7860 (2021).

affected by the Commission's rules adopted in the *Second Report and Order*, as is Intrado.³ Providing reliable 911 service to our OSP and PSAP customers is our focus, and we share the Commission's goal to ensure that PSAPs receive timely, fulsome, and accurate information when an outage occurs.

Intrado files these comments because, in the *Second Report and Order*, the Commission grossly miscalculated and failed to support its calculation of the burden on respondent OSPs to collect and maintain PSAP contact information and to notify potentially affected PSAPs of an outage within 30 minutes of discovery. The Commission has failed to acknowledge and accurately account for the cost of substantial new burdens that will be placed on thousands of respondent OSPs that are – or will be – required to comply with the revised Section 4.9 of the Commission's rules.⁴ Therefore, the rules adopted in the *Second Report and Order* do not meet the requirements of the PRA.

In designing an information collection, federal agencies must consider the burden the collection would impose on responding entities and provide “specific, objectively supported” estimates of the burden imposed by the collection.⁵ The lack of a more detailed public record on costs does not absolve the Commission of the need to comply with the requirement of the PRA to provide specific, objectively supported burden estimate. The Commission's back-of-the-envelope burden calculation in the *Second Report and Order* does not satisfy the PRA.

To redress this situation and avoid OMB disapproving the Commission's request for PRA approval, the Commission should grant the relief requested by the Competitive Carriers

³ Intrado also provides vendor services to Covered 911 Service Providers (C911SPs) and direct C911SP services to State and Local Governments/Public Safety Answering Points and other 911 special facilities (collectively, PSAPs).

⁴ 47 C.F.R. § 4.9.

⁵ 44 U.S.C. § 3506 (c)(1)(A)(iv).

Association in its pending Petition for Reconsideration (CCA Petition) in the above-referenced dockets.⁶ If the Commission is unable to justify the cost burdens, then the rule should be revised before seeking OMB final approval.

I. THE COMMISSION’S SECOND REPORT AND ORDER UNDULY DISCOUNTS THE PUBLIC RECORD AND PROVIDES NO OBJECTIVE SUPPORT FOR BURDEN CALCULATIONS.

In the *Second Report and Order*, the Commission required respondent OSPs to collect, update, and maintain contact information of the PSAPs they serve.⁷ The Commission’s assessment is that the cost to respondents collectively to create and maintain a PSAP contact list “will result in a one-time compliance cost of \$149,000 and an annual recurring cost of \$1,652,000.”⁸ This burden calculation is not supported by the record and does not address the full range of costs, nor is it based on objective criteria.⁹

A. Creating and Maintaining a PSAP Contact List

1. One-Time Cost of Creating a PSAP Contact List

The Commission concluded that the one-time cost for all respondent C911SPs and OSPs to create a PSAP contact list will be \$149,000.¹⁰ This covers respondent OSPs creating an email survey to determine contact information for the PSAPs in their service area and harmonizing

⁶ Petition for Reconsideration of Competitive Carriers Association, PS Docket Nos. 15-80, 13-75, ET Docket No. 04-35 (filed March 17, 2023).

⁷ *Second Report and Order*, 37 FCC Rcd at 13851 ¶ 8.

⁸ *Id.* at 13864 ¶ 36.

⁹ The cursory nature of the burden calculation in the *Second Report and Order* stands in sharp contrast to a draft burden analysis that the Commission has recently made public in another 911-related proceeding. *See Location-Based Routing for Wireless 911 Calls*, Report and Order, PS Docket No. 18-64 (FCCCIRC2401-02) ¶¶ 118-133 (public draft posted Jan. 4, 2024). In this pre-decisional Report and Order, the Commission provides a more detailed burden analysis based on a much wider and appropriate range of costs.

¹⁰ *Id.* at 13864 ¶ 36. The Commission’s analysis is complicated by the fact that in the Final Regulatory Flexibility Analysis appended to the *Second Report and Order*, it appears to rely on a slightly different analysis. *See id.* at 13881-82, App. B ¶¶ 25-26.

C911SP and OSP 911 outage notification templates. The Commission assumes that “the majority” of PSAPs will respond to the email survey, and follow-up calls necessary to establish the initial contact list will be limited.¹¹ Several OSPs raised concerns in the record about this assumption, but the Commission did not address their concerns.¹²

Intrado knows from experience it is not realistic to expect the majority of the country’s 5,750 PSAPs to respond to an email survey for contact information on the first attempt, and there is no way to gauge how many attempts will be required. Creating a contact list with accurate and up-to-date information is not simply a matter of a little research and a couple follow-ups. Rather, as Intrado has experienced in maintenance of its own PSAP database for over a decade, respondent OSPs will need to dedicate full-time, knowledgeable staff, exercising “special diligence,” to establish reasonably accurate and complete PSAP contact information in a reasonable time frame to comply with the Commission’s rule.

Intrado also disputes the Commission’s assessment that the average hourly rate for the employees doing this work is \$34/hour,¹³ which equates to an annual salary of approximately \$68,000, without considering the cost of benefits. The Commission provided no information on how it arrived at this salary estimate, and it is not at all aligned to the current marketplace for 911 employees in which Intrado engages daily.¹⁴ Even relying on the Commission’s statement of

¹¹ *Id.* at 13864 ¶ 36. Both the requirement for respondent OSPs to create and maintain a PSAP contact list and the new OSP 30-minute notification rule will also raise PSAP costs. There is great potential for PSAPs to be overwhelmed with requests from OSPs exercising special diligence to obtain contact information. *See, e.g.*, Comments of BRETSA, filed July 30, 2021, at 8-9. Also, the 30-minute rule is highly likely to lead to OSPs routinely “blasting” notifications to PSAPs as there will not be sufficient time to refine geographic scope of an outage. As PSAPs are not considered respondents for purposes of this PRA analysis, no further analysis of costs to PSAPs is offered here.

¹² *See, e.g.*, Letter to Marlene Dortch, Secretary, Federal Communications Commission, from Jeanne Stockman, Associate General Counsel, Lumen, filed Nov. 10, 2022, at 4.

¹³ *Second Report and Order*, 37 FCC Rcd at 13865 n.114.

¹⁴ The salary of a typical Incident Command Center employee is 30-40% higher.

hourly rate, and assuming for sake of argument that only one employee earning \$34 per hour works 10 hours per week for 23 weeks (which is to say half the time that AT&T estimates its staff applies to maintain an already-created list)¹⁵ to establish complete PSAP contact information and harmonize templates, each of 2,890 providers¹⁶ would incur at least \$7,820 in one-time costs (totaling \$22,599,800 collectively for all respondents) just to assemble PSAP contact information. This is far more than the Commission's assessment of \$149,000 in one-time costs.

The Commission's analysis is complicated by the fact that, in the Final Regulatory Flexibility Analysis (FRFA) appended to the *Second Report and Order*, it appears to rely on a different analysis.¹⁷ There, the Commission estimates that the one-time cost to establish a PSAP contact list is \$17 per OSP, calculated as 30 minutes for an employee earning \$34 per hour to develop an online Microsoft Outlook survey. In the FRFA, the Commission states the one-time cost to create the PSAP contact list as \$49,130 [0.5 hours X \$34 X 2,890]. Among the costs missing from the Commission's calculation is any level of supervisory/quality review of the email survey and introductory communication to the PSAPs before distribution.

2. Annualized Costs of Maintaining PSAP Contact Information and Notifying PSAPs

The Commission's assessment of annualized cost fares no better. The Commission estimates annual recurring costs for C911SPs and OSPs of: \$197,000 to identify PSAPs that could potentially be affected by a service outage; \$197,000 for maintaining and updating contact information for those PSAPs that could potentially be affected by a service outage; and

¹⁵ AT&T Comments at 14.

¹⁶ 2,890 is the number of respondents the Commission references in the Final Regulatory Flexibility Analysis appended as App. B. See *Second Report and Order*, 37 FCC Rcd at 13881-2 App. B ¶¶ 25-26.

¹⁷ See *id.*

\$1,258,000 for notifying PSAPs of outages that potentially affect them.¹⁸ The Commission's estimate, therefore, is that the annual cost to all respondents collectively will be \$1,652,000.¹⁹

The Commission appears to say that respondent OSPs will assign maintenance of the list to only one employee, who will spend only two hours (presumably, \$68) *each year* maintaining the list.²⁰ Within those two hours, the Commission assumes this same employee will review existing service agreements, collaborate with other network operators, confirm which PSAPs could be affected, and make necessary changes to the provider's network all at a rate of \$34 per hour.²¹ The Commission's analysis belies a lack of knowledge of how respondents operate, the marketplace for 911 employees in the current inflationary environment, and the level of effort and attention to detail required to provide reliable 911 service and appropriate outage response.

Intrado's own experience of maintaining its nationwide PSAP contact list for over a decade further contradicts the Commission's time/cost assumptions. Ensuring accurate and current PSAP contact information requires several full-time employees who maintain close and continuous contact with the PSAPs. These employees must proactively reach out to thousands of PSAPs multiple times per year by both email and phone and update several contacts per PSAP for population and maintenance of a database with email and phone information for over 20,000 individual contact points (as each PSAP has multiple contacts). This effort in Intrado's estimation and first-hand experience²² translates to an *average* annual and ongoing cost of

¹⁸ *Id.* at 13864 ¶ 36.

¹⁹ *Id.*

²⁰ *Id.* at 13882 App. B n. 106.

²¹ *Id.* at 13864 ¶ 36, 13882 App. B. n. 105.

²² Intrado expends approximately \$130,000 annually in recurring costs (excluding one-time build costs) to maintain its nationwide contact database.

\$20,000²³ for each OSP/C911SP (for a collective burden on respondents of \$57,800,000 (2,890 X \$20,000)) to maintain a complete and accurate list.

3. “Special Diligence” is not explained in coherent and unambiguous terms as required by the PRA. Without more clarity on what “special diligence” requires, burden estimates are not possible.

PRA requires that collections be based on coherent and unambiguous language such that respondents will have an understanding of how to comply.²⁴ In the *Second Report and Order*, the Commission described “special diligence” as that “diligence expected from a person practicing in a particular field of specialty under circumstances like those at issue,” citing a legal treatise.²⁵ This statement is too vague and lacks specific, objectively supported burden estimates to provide the guidance required by PRA. The Commission rejected suggestions in the record on how to define the special diligence required to maintain a PSAP contact list²⁶ and imposed the requirement without providing respondent OSPs a means to understand what level of diligence would satisfy the rule.

Further, the Commission assumed without much explanation that respondent OSPs will require an average of only two hours each year to maintain and update PSAP outage contact information after creation of the initial list.²⁷ The flaw of this assumption is obvious considering

²³ This calculation represents 25% of the time of one employee with an average annual salary of \$80,000 (which is conservative in Intrado’s experience as noted above).

²⁴ 44 U.S.C. § 3506(c)(3)(D).

²⁵ *Second Report and Order*, 37 FCC Rcd 13851-52 at ¶¶ 8-9.

²⁶ See Letter to Marlene Dortch, Secretary, Federal Communications Commission, from Michael Mullinix, Assistant Vice President, Regulatory Affairs, CTIA; Tom Goode, General Counsel, ATIS; Alexandra Mays, Assistant General Counsel, CCA; and Morgan Reed, Director, Policy & Advocacy, USTelecom, Nov. 10, 2022, at 6-7 (Joint Association Ex Parte).

²⁷ *Id.*

the Commission's requirement that respondent OSPs exercise "special diligence" to maintain the list.²⁸

AT&T provided information in the record that its personnel average 20 hours per week for approximately 46 weeks per year on this task.²⁹ The Commission discounted AT&T's information, however, as being at the top of the range, with smaller providers requiring less time, but does not explain its assumptions with respect to smaller providers or how it arrived at this "average" estimate or how this could meet the requirement for special diligence. For example, providers in the VoIP/UCaaS³⁰ space often offer nationwide, nomadic coverage given the dynamic nature of IP networks and, therefore, would need a nationwide PSAP contact database just like AT&T.³¹ Further, the Commission assumed without explanation an average hourly employee rate of \$34 across the industry, resulting in a calculation that respondent OSPs would spend an average of \$68 per year to keep the list updated at a collective cost to respondents of \$197,000. Even relying on the average hourly rate the Commission assumes, based on AT&T's statements in the record of the proceeding, the cost to AT&T alone would be over \$30,000.

As noted above, Intrado has maintained PSAP contact information as part of our services for many years. Since the adoption of the *Second Report and Order*, we have received many inquiries from our OSP customers who know that they do not have the staffing and internal process to create and maintain a list, especially considering the lack of clarity regarding "special diligence," to add PSAP contact information to their purchased services.

²⁸ *Id.* at 13852 ¶ 9.

²⁹ AT&T Comments at 14. It is not true, therefore, that "[t]here is nothing in the record to suggest our initial time and cost estimate was incorrect." *Second Report and Order*, 37 FCC Rcd at 13882 App. B ¶ 25.

³⁰ Unified Communications as a Service.

³¹ *See generally* Comments of the Voice on the Net Coalition, filed July 30, 2021.

B. Expansion of 30-minute PSAP notification rule to OSPs.

Contrary to the requirements of the PRA, the Commission also does not provide objective support for its cost estimates associated with strict application of the 30-minute deadline to notify all potentially affected PSAPs of outages.³² The Commission believes, but does not support, that respondents collectively will incur annualized costs of \$1,652,000 to comply with the new rule as a whole, with approximately \$1,455,00 of that amount allocated to the 30-minute requirement broken down as \$197,000 “for identifying 911 special facilities that could potentially be affected by a service outage,” plus \$1,258,000 for notifying 911 special facilities of outages that potentially affect them[.]”³³ Further, the Commission’s calculation appears to be based on just the physical act of sending out a notification by email, when new Section 4.9(h) of the Commission’s rules requires notice to be sent also by telephone.

Because nearly all respondent OSPs use a 911 vendor like Intrado for 911 services rather than building these functions in-house, the 30-minute deadline for OSPs to provide an initial outage notification for 911 service specific outages (i.e., other than non-emergency, “general network”³⁴ outages on the OSP network) to all potentially affected PSAPs is actually much shorter because of the time needed to execute the notification process. The process of identifying and responding to a 911 outage, therefore, starts in the 911 vendor’s network: alarms go off in the vendor’s Network Operations Center (NOC), NOC staff investigates and triages the alarms to confirm impact and potentially affected PSAPs/geographic scope (if available), NOC escalates to the Incident Command Center (ICC), and then the incident team confirms reportability and sends

³² *Id.* at 13864 ¶ 36.

³³ *Id.* It appears that the Commission attributes to the 30-minute aspect of the rule: \$197,000 “for identifying 911 special facilities that could potentially be affected by a service outage,” plus \$1,258,000 for notifying 911 special facilities of outages that potentially affect them[.]” *Id.*

³⁴ *Id.* at 13853 ¶ 11.

notification to potentially affected OSPs. The process of simply delivering notice of the outage from the 911 vendor to the OSP typically takes a minimum of 30-60 minutes from the vendor's discovery of a reportable outage, and often the vendor at minute 30 does not have sufficient information to assist the OSP with identifying the potentially affected PSAPs.

If the revised PSAP outage notification rule becomes effective, 911 vendors need to substantially accelerate the delivery of outage information to OSPs to put OSPs in a position to timely execute their outage notification process. This is not possible without costly automation, more sensitive alarming, and more 24/7 NOC and ICC staff both for the 911 vendors and the OSPs. Even with the time saved by automation, the 911 vendors (who operate shared platforms across many OSPs) will almost never have actionable information immediately about the outage that would allow OSPs to send notifications only to the potentially affected PSAPs in their service areas. To avoid non-compliance, OSPs will likely routinely notify a great many more PSAPs than necessary.

The 30-minute deadline will require respondent OSPs to incur substantial costs and 911 vendors to pass additional costs on to OSP customers. The Commission fails to appreciate that delivering PSAP notification faster is not as simple as clicking the "send" button. Rather, the OSPs and 911 vendors will need to upgrade their networks and services and completely redo their current incident identification and response systems. Further, maintenance and operation of these new systems will require significant additional operating expenses with dedicated full-time staff.

Intrado, as a 911 vendor to OSP customers, estimates that it will need to make significant capital investments in its network and systems and hire several full-time employees in its network operations, incident response, technology, and development teams to support a shorter

timeline for delivering outage notifications to our OSP customers. In total, Intrado estimates it will incur additional, one-time capital expenses of approximately \$4,095,000 for networks and system upgrades requiring substantial development work and \$610,000 in recurring, annual operating expenses to support and maintain the new solution. The following table provides additional detail:

	One Time Costs	Recurring Costs
Each cost includes addressing alarm automation, integration with notification platforms, ongoing monitoring/management across several teams (Incident Command, NOC, IT Group, Network Operations)		
Function		
Network/Service Upgrades	965,000	-
Location Database Upgrades	580,000	-
Incident Command/IT	500,000	450,000
Network Operations Center	500,000	160,000
PSAP Contact Database Upgrades/Integration	550,000	-
Notification Tool Integration	1,000,000	-
Total	4,095,000	610,000

II. THE COMMISSION DOES NOT DEMONSTRATE THAT IT CHOSE THE LEAST BURDENSOME PATH TO ACHIEVE ITS GOALS.

Under PRA, the Commission must demonstrate “that it has taken every reasonable step to ensure that the proposed collection of information ... is the least burdensome necessary for the proper performance of the [Commission’s] functions to comply with legal requirements and achieve program objectives.”³⁵ Although the Commission should “seek to minimize the cost to itself of collecting, processing, and using the information,” it may “not do so by means of shifting disproportionate costs or burdens onto the public.”³⁶

³⁵ 44 U.S.C. §§3501-3520.

³⁶ 5 C.F.R. § 1320.8(d)(1)(iii).

The Commission failed to meet this PRA requirement by not explaining how requiring that every OSP create and maintain a PSAP contact list is the least burdensome option and by rejecting viable alternatives, including establishment of a centralized database on which all respondent OSPs could rely for PSAP contact information. In fact, the docket included widespread commenter support from both OSPs and public safety commenters for creating such a database.³⁷ No doubt, creating and administering a PSAP contact database would come at a significant cost to the Commission. Yet, the Commission offered no real analysis for rejecting this proposal over the path it chose to require respondent OSPs to create and maintain separate PSAP databases -- at enormous collective capital and recurring cost in light of the “special diligence” requirement – resulting in thousands of duplicative databases. This choice and the failure to explain it cannot possibly meet the requirements of the PRA and, alone, should cause OMB to withhold final approval of the rule.

III. THE NEW RULE WILL RENDER PSAP OUTAGE NOTIFICATIONS LESS ACCURATE AND RELIABLE.

In addition to ensuring that a collection requirement is the least burdensome necessary, under the PRA, a federal agency must demonstrate to OMB also that the collection has “practical utility,” which OMB defines as “the actual, not merely the theoretical or potential, usefulness of information to or for an agency, taking into account its accuracy, validity, adequacy, and reliability.”³⁸ The new, 30-minute deadline for OSPs to notify PSAPs of outages that potentially affect them will greatly reduce the accuracy and reliability of notification.

³⁷ See Joint Association Ex Parte at 6; Reply Comments of Southern Linc filed Aug. 30, 2021, at 8; Comments of NCTA – the Internet & Television Association, filed July 30, 2021, at 6-7; see also NENA: the 911 Association Comments, filed July 30, 2021, at 6-7; BRETSA’s Reply Comments on Third Notice of Proposed Rulemaking, filed Aug. 30, 2021, at 6.

³⁸ 5 C.F.R. § 1320.3(1).

Beyond the extraordinary burden of the new rule, OSPs, for fear of non-compliance and heavy FCC enforcement penalties, will inevitably increase the number of “blast,” nationwide notifications to PSAPs whenever they do not have sufficient information by minute 30 to identify the potentially affected PSAPs and/or geographic scope of the outage. This will happen with increasing frequency given the operational complexities of OSP networks and 911 services discussed above. PSAPs, in turn, will be less likely to review and operationalize these notifications due to notice fatigue, confusion, annoyance, and resource constraints. Further, for reasons of their own potential liability, PSAPs will need – or even be required – to over-notify the public based on notification of potential outages. This creates separate notice fatigue, confusion, and annoyance for the public as well as potential reputational damage to PSAPs.

Compounding this dilemma further is that OSPs may not always send follow-up notifications to withdraw inaccurate notifications sent to unaffected PSAPs, and PSAPs that are truly potentially affected will continue to receive follow-up notifications that are unlikely to include useful information, further increasing the likelihood that PSAP recipients would simply mute or block notifications. In addition, the rule will lead to a drastic increase in the number of filed and withdrawn outage reports in the Commission’s Network Outage Reporting System, which will produce unreliable information and data for the Commission and waste staff resources.

The Commission’s choice to instantiate a rule that reduces the accuracy, validity, adequacy, and reliability of outage notification to PSAPs with these very real cascading effects, and without objective support and justification, is an additional reason why OMB should not proceed with final approval of the rule until the Commission provides a serious analysis of the burden.

CONCLUSION

For the foregoing reasons, OMB should withhold approval for the associated information collections and related actions pending Commission action to reconsider the *Second Report and Order*. Absent revision, the new rule will, contrary to the requirements of the PRA, impose a substantial and unsupported burden on respondents while also reducing the accuracy and reliability of the data subject to the collection.

Respectfully submitted,

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