

April 29, 2009

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Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
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Re: Ex Parte Notice, WC Docket No. 08-238, Embarq Corporation, Transferor, and CenturyTel, Inc., Transferee, Application for Transfer of Control of Domestic Authorizations Under Section 214 of the Communications Act

Dear Ms. Dortch:

On April 22, Intrado Communications Inc. submitted an ex parte letter briefly supporting the merger conditions earlier proposed by COMPTTEL. Intrado's letter focused, in particular, on "a condition that would require the merged entity to port existing interconnection agreements from state to state."¹ Intrado's only rationale for such a condition is to repeat verbatim COMPTTEL's claim that "the merger of two incumbent LECs increases, rather [than] diminishes, the merged firm's market power."² Neither COMPTTEL nor Intrado have explained how this proposed condition addresses any specific harm caused by the merger.

CenturyTel and Embarq have outlined the significant public interest benefits of their proposed merger, and they have explained why COMPTTEL's long list of proposed conditions, including this one, should be rejected.³ Additionally, Intrado seeks to use this condition to address an issue that is wholly unrelated to the merger. Specifically, Intrado seeks interconnection under section 251(c),⁴ including access to unbundled network elements, in order "to offer competitive 911 services."⁵ Intrado has filed arbitration petitions seeking this interconnection across the country, including several against Embarq. Most state commissions deciding the issue have ruled against Intrado, and held that such interconnection must be sought pursuant to commercial arrangements under section 251(a),⁶ not pursuant to section 251(c).⁷

¹ Letter from Carey Spence-Lenss, Intrado, to Marlene Dortch, FCC, WC Docket No. 08-238 (Apr. 22, 2009) ("*Intrado Letter*") at 1.

² *Id.* at 2 (quotation marks omitted).

³ See Letter from Samuel Feder and Gregory Vogt, Counsel for Embarq and CenturyTel, to Marlene Dortch, FCC, WC Docket No. 08-238 (Apr. 10, 2009).

⁴ 47 U.S.C. § 251(c).

⁵ *Intrado Letter* at 2.

⁶ 47 U.S.C. § 251(a).

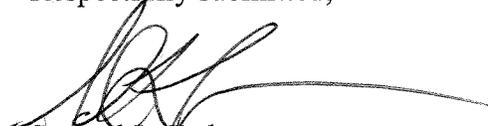
⁷ See, e.g., *Intrado, Inc. Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934 as Amended, to Establish an Interconnection Agreement with Illinois Bell Telephone Co.*, Arbitration Decision 08-0545 (Ill. Commerce Comm'n, Mar. 17, 2009) (finding no right to interconnection under section 251(c); *In re Petition by Intrado Communications, Inc. for Arbitration of Certain Rates, Terms, and Conditions for Interconnection and*

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Intrado presumably advocates this interstate porting condition in the hopes that, having convinced a single state commission to grant it 251(c) interconnection, it can port that ruling across the country, and thereby overturn the decisions of all other state commissions.

Embarq has always dealt fairly with Intrado and made clear that Embarq is fully willing to negotiate commercial interconnection arrangements with Intrado under section 251(a).⁸ If Intrado nevertheless wants to continue to pursue section 251(c) interconnection, it can challenge the state commission rulings adverse to Intrado in court. But whatever the merits of Intrado's argument, it has nothing to do with this transaction, and this proceeding should not be used as a back-door means of gaining interconnection rights to which Intrado is otherwise not entitled.

Respectfully submitted,



Samuel L. Feder

Related Arrangements with BellSouth Telecommunications Inc. d/b/a/ AT&T Florida, Inc., Pursuant to Section 252(b) of the Communications Act of 1934, as Amended, and Sections 120.80(13), 120.57(1), 364.15, 364.16, 346.616 and 364.162, F.S. and Rule 28-106.201, F.A.C., Final Order, Order No. PSC-08-0798-FOF-TP (Fla. P.S.C., Dec. 3, 2008) (same), recon. denied, Final Order Denying Motion for Reconsideration, Order No. PSC-09-0155-FOF-TP (Fla. P.S.C., Mar. 16, 2009); Intrado Communications, Inc. and Verizon West Virginia, Inc., Petition for Arbitration Filed Pursuant to § 252(b) of 47 U.S.C. and § 150 of C.S.R. 6.15.5, Arbitration Award, Dkt. 08-0298 (West Va. P.S.C., Nov. 14, 2008) (“A fair reading of the applicable provisions of the Telecommunications Act of 1996 and the FCC’s rules . . . would indicate that Intrado’s right to request interconnection solely for the provision of 911/E911 service pursuant to section 251(c) may be questionable.”).

⁸ 47 U.S.C. § 251(a).