

Attachment 2

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September 21, 2009

VIA HAND DELIVERY

Walter L. Thomas, Jr., Secretary
Alabama Public Service Commission
P. O. Box 304260
Montgomery, Alabama 36130-4260

RE: In the Matter of the Petition of Intrado Communications, Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, to Establish an Interconnection Agreement with CenturyTel of Alabama, LLC d/b/a CenturyTel; Docket No: 31036

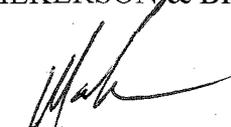
Dear Mr. Thomas:

Attached hereto for electronic filing with the Alabama Public Service Commission is CenturyLink's Response to Intrado Communications, Inc.'s Request for Procedural Schedule in the above-styled cause. The original and one copy of the Response will be delivered to your office on today's date.

Please direct any questions regarding this correspondence to my office. As always, thank you for your prompt attention in this matter,

Very truly yours,

WILKERSON & BRYAN, P.C.



Mark D. Wilkerson

MDW:cld

Attachment

cc: James H. McLemore, Esq.
Che'rie R. Kiser, Esq.
Angela F. Collins, Esq.
Susan Masterson, Esq.

**BEFORE THE
ALABAMA PUBLIC SERVICE COMMISSION
MONTGOMERY, ALABAMA**

**In the Matter of the Petition of Intrado)
Communications Inc. for Arbitration)
Pursuant to Section 252(b) of the) Docket No. 31036
Communications Act of 1934, as)
amended, to Establish an Interconnection)
Agreement with CenturyTel of)
Alabama, LLC d/b/a CenturyTel)**

**CENTURYLINK'S RESPONSE TO INTRADO COMMUNICATIONS, INC.'S
REQUEST FOR PROCEDURAL SCHEDULE**

On August 27, 2009, Intrado Communications, Inc. ("Intrado") requested that the Commission schedule a pre-hearing conference "to set the procedural schedule for the remainder of the above-referenced arbitration proceeding, including the scheduling of the arbitration hearing." In response, CenturyTel of Alabama, LLC, d/b/a CenturyLink² renews its December 12, 2008 Motion to Dismiss,³ and requests that the Commission establish a separate proceeding or briefing schedule to address the threshold question of whether Intrado is entitled to Section 251(c) Interconnection and Section 252 Arbitration. Intrado admits that there exists a dispute over whether it is entitled to Section 251(c) Interconnection and Section 252 Arbitration.⁴ If the answer is "no," all other matters

¹ Letter dated August 27, 2009 from Chérie R. Kiser, Counsel for Intrado, to Walter Thomas, Executive Secretary, Alabama Public Service Commission, at p. 2.

² On July 1, 2009, CenturyTel of Alabama, LLC's parent, CenturyTel, Inc. acquired Embarq Corporation. On September 15, 2009, the Commission approved the use of the trade name CenturyLink by CenturyTel of Alabama, LLC.

³ Motion to Dismiss or, In The Alternative, To Hold in Abeyance Intrado Communications, Inc.'s Petition for Arbitration, *In the Matter of the Petition of Intrado Communications Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, to Establish an Interconnection Agreement with CenturyTel of Alabama, LLC d/b/a CenturyTel*, Docket No. 31036 (A.P.S.C. Dec. 12, 2008).

⁴ Petition for Arbitration at pp. 10-11, *In the Matter of the Petition of Intrado Communications Inc. for Arbitration* (A.P.S.C. Nov. 17, 2008).

raised in Intrado's Petition are rendered moot. It would be illogical and inefficient to commence proceedings regarding the pricing, terms and conditions of an interconnection agreement prior to such a legal determination. This threshold issue is best addressed in a generic proceeding or through a separate briefing schedule and argument on this issue held in conjunction with Intrado's pending AT&T arbitration petition. *In the Matter of the Petition of Intrado Communications, Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, to Establish an Interconnection Agreement with BellSouth Telecommunications, Inc., d/b/a AT&T Alabama*, Docket No. 30708.

In response to a similar Intrado arbitration petition, the Public Utility Commission of Texas recently concluded that it was appropriate to address certain threshold legal issues prior to adopting a comprehensive procedural schedule for the arbitration. In its *Order No. 2, Memorializing Prehearing Conference, Requesting Briefs on Threshold Legal Issues, and Restyling Docket*,⁵ the Texas Commission established a briefing schedule to address certain the threshold legal issues, including whether Intrado's proposed service is "telephone exchange service" or "exchange access" for purposes of the Act. Order No. 2 at p. 1.

As set forth in CenturyLink's Motion to Dismiss, Intrado fails to meet the Section 251(c) interconnection standard because it is not providing "telephone exchange service,"

⁵Order No. 2 Memorializing Prehearing Conference, Requesting Briefs on Threshold Legal Issues, and Restyling Docket, *Petition of Intrado, Inc. for Compulsory Arbitration with Southwestern Bell Telephone Company d/b/a AT&T Texas Under the FTA Relating to the Establishment of an Interconnection Agreement*, Docket No. 36167 (Texas PUC Oct. 17,2008).

as defined in the Act.⁶ It is undisputed that Intrado's 911/E911 services will not be assigned telephone numbers, will not be capable of drawing dial tone, and cannot originate calls to subscribers served on the Public Switched Telephone Network (PSTN). For these reasons, other states, including the Florida Public Service Commission, have found Intrado is not entitled to Section 251(c) interconnection.⁷ While the North Carolina Public Service Commission recently reached a contrary conclusion, CenturyLink believes its decision was wrongly decided and will raise a whole new set of issues if ultimately implemented.⁸ This question is also now before the Federal Communications Commission (FCC), standing in for the Virginia State Corporation Commission, in a combined arbitration proceeding involving Intrado petitions with Embarq and Verizon.⁹

WHEREFORE, CenturyLink renews its request that this Commission hold in abeyance further proceedings in this matter pending an initial determination of as to whether Intrado's service qualifies for 251(c) Interconnection and Section 252

⁶ See 47 U.S.C. § 153(47) (A service is a "telephone exchange service" if it (A) "furnish[es] ... subscribers intercommunicating service of the character ordinarily furnished by a single exchange" or (B) "comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service").

⁷Memorandum, *Petition by Intrado Communications, Inc., for Arbitration of Certain Rates, Terms and Conditions for Interconnection and Related Arrangements with BellSouth Telecommunications, Inc., d/b/a AT&T Florida, Pursuant to 252(b) of the Communications Act of 1934, as amended, and Sections 120.80(13), 120.57(1), 264.15, 264.16, 364.161, and 364.12, F.S., and Rule 28-106.201, F.A.C.* Docket No. 070736-TP (Fla. P.S.C. Oct. 30, 2008); Vote Sheet, *Petition by Intrado Communications, Inc.,* Docket No. 070736-TP (Fla. P.S.C. Nov. 13, 2008).

⁸Recommended Arbitration Order, *In the Matter of Petition of Intrado Communications Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as Amended, with BellSouth Telecommunications, Inc. d/b/a AT&T North Carolina,* Docket No. P-1187, SUB 2 (N.C.U.C. Apr. 24, 2009).

⁹Memorandum Opinion and Order, *In the Matter of Petition of Intrado Communications of Virginia Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Arbitration of an Interconnection Agreement with Verizon South Inc., and Verizon Virginia Inc. (collectively, Verizon),* WC Docket No. 08-185 (FCC rel. Oct. 16, 2008).

Arbitration. Such a determination is best made in a joint proceeding involving both pending Intrado arbitrations, or a generic docket created by the Commission.

Respectfully submitted on this the 21 day of September, 2009.



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ALABAMA, LLC d/b/a CENTURYTEL

OF COUNSEL:

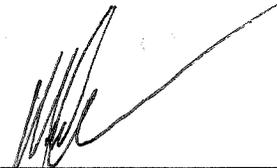
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document on all counsel of record as listed below by placing a copy thereof in the United States mail, postage prepaid, on this the 21 day of September, 2009:

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