

Attachment 3

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September 29, 2009

VIA FEDERAL EXPRESS AND ELECTRONIC FILING

Walter Thomas
Executive Secretary
Alabama Public Service Commission
100 North Union Street, 8th Floor
Montgomery, AL 36130



Re: Docket No. 31036, 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

Dear Mr. Thomas:

Intrado Communications Inc. (“Intrado Comm”), by its attorneys, respectfully submits this reply to CenturyLink’s Response to Intrado Communications Inc.’s Request for Procedural Schedule filed on September 21, 2009 in the above-referenced arbitration proceeding. For the reasons set forth below, Intrado Comm urges the Alabama Public Service Commission (“Commission”) to reject CenturyLink’s attempt to further delay this proceeding, and respectfully requests that the Commission promptly establish a procedural schedule for the remainder of the arbitration.

The issue of whether Intrado Comm is entitled to Section 251(c) interconnection is already before the Commission as part of the overall arbitration proceeding. The issue will be fully briefed and reviewed as part of the arbitration; there is no need for a separate generic proceeding to address the issue. The Commission should proceed in the same manner as the commissions in North Carolina, Ohio, Florida, and Illinois, which addressed the issue of Intrado Comm’s 251(c) interconnection rights as part of the overall arbitration proceeding.¹ Indeed, with the exception of Texas, every state in which Intrado Comm has sought arbitration has dealt with the issue without conducting a separate proceeding

¹ Both the North Carolina and Ohio commissions confirmed Intrado Comm’s right to obtain Section 251(c) interconnection as part of the overall arbitration order addressing all of the arbitration issues raised by the parties. See generally North Carolina Docket P-1187, Sub 2, *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 North Carolina*, Recommended Arbitration Order (April 4, 2009), Order Ruling on Objections and Requiring the Filing of a Composite Agreement (Sept. 10, 2009); Ohio Case No. 07-1280-TP-ARB, *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 the Ohio Bell Telephone Company dba AT&T Ohio*, Arbitration Award (Mar. 4, 2009), Entry on Rehearing (June 17, 2009).

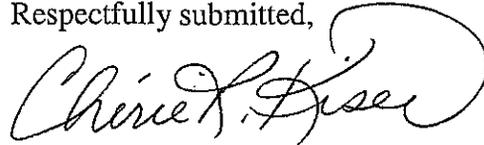
on Intrado Comm's 251(c)'s rights.² Texas has been the only state to bifurcate the proceeding,³ but that decision was based on a specific Texas commission rule, which permits "threshold" issues to be dealt with via a separate process.⁴

Intrado Comm's petition for arbitration has been pending since November 2008.⁵ CenturyLink's request is simply another attempt to further delay Intrado Comm's entry into the Alabama market. Any further delay in the arbitration proceeding now pending nearly one year would violate Sections 252(b)(4)(C) and 253(a) of the Communications Act of 1934, as amended ("Act").⁶ Establishment of a schedule for the arbitration proceeding is therefore appropriate at this time, and CenturyLink's request to hold the arbitration proceeding in abeyance pending resolution of a generic proceeding should be rejected.

Accordingly, Intrado Comm respectfully requests that the Commission schedule a pre-hearing conference as soon as practicable with the goal of setting a complete procedural schedule for Intrado Comm's arbitration proceeding with CenturyLink. The procedural schedule would include dates for Intrado Comm's response to the remainder of CenturyLink's Motion to Dismiss, the filing of both Parties' pre-filed testimony and exhibits, the evidentiary hearing, and the filing of post-hearing briefs. The Commission should schedule the pre-hearing conference as soon as practicable so Intrado Comm can secure the interconnection agreement this Commission deems necessary for competitors to provide service in the State of Alabama.

Please contact the undersigned with any questions concerning this filing.

Respectfully submitted,



Cherie R. Kiser

Counsel for Intrado Communications, Inc.

cc: Parties of Record (via electronic mail and U.S. Mail)
Rebecca Ballesteros, Intrado Comm

² Other than Texas, this includes nineteen (19) arbitration proceedings against five (5) different carriers in ten (10) states.

³ CenturyLink Response at 2.

⁴ Texas PUC Interconnection Rule § 21.61.

⁵ Docket 30708, *Petition of Intrado Communications Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, and to Establish an Interconnection Agreement with CenturyTel of Alabama, LLC d/b/a CenturyTel*, Petition for Arbitration (filed Nov. 17, 2008).

⁶ If a carrier cannot maintain its certificate of public convenience and necessity to provide telecommunications services in the state unless it has an interconnection agreement and the Commission cannot fulfill its obligation to resolve arbitrations within the statutory timeframe, the rule requiring certification amounts to a prohibition on the ability of a carrier to provide intrastate telecommunications services in Alabama. Both the certification rule and the failure to act timely on an arbitration petition support a request for preemption by the Federal Communications Commission. See 47 U.S.C. §§ 252(b)(4)(C), 253(a).