

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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, and Section 364.162, Florida  
Statutes to Establish an Interconnection Agreement with  
Embarq Florida, Inc.

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) Docket No. 070699-TP  
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) Filed: December 18, 2008  
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**INTRADO COMMUNICATIONS INC.  
REQUEST FOR ORAL ARGUMENT**

Intrado Communications Inc. ("Intrado Comm"), pursuant to Rules 25-22.0022 and 25-22.060, Florida Administrative Code, respectfully requests that its counsel be granted the opportunity to present oral argument relating to Intrado Comm's Motion to Reconsider the Commission's Order No. PSC-08-0799-FOF-TP, issued December 3, 2008 ("Order").

The Commission recognized that this "is a case of first impression which presents unique circumstances and policy concerns not previously addressed by this Commission."<sup>1</sup> The Commission further recognized that 911/E911 service "is an essential service in Florida"; that the Commission is "entrusted with protecting the public health, safety, and welfare and must ensure access to basic local service, which includes access to 911/E911 service"; and that "access to 911/E911 must continue uninterrupted regardless of the 911/E911 service provider."<sup>2</sup> Despite the importance and novelty of the questions presented in this matter, the Commission has yet to hear any oral argument on the threshold issue. Indeed, the only issue decided in its Order — "whether Intrado Comm's service offering meets the definition of a 'telephone exchange service,' as the term is defined in §3 of the [Communications] Act [of 1934, as

<sup>1</sup> Order at 7.

<sup>2</sup> *Id.*

amended].”<sup>3</sup> Nor has the Commission heard oral argument relating to its obligation to arbitrate the parties’ dispute under Florida law.

Although Intrado Comm’s motion for reconsideration addresses the various points of law and fact that Intrado Comm submits the Commission overlooked or misunderstood, the Commission cannot properly resolve these issues — and discharge its duty to ensure that the public receives the highest quality 911/E911 services — based only on its review of the papers and a motion for reconsideration. Such papers are designed only to “identif[y] a point of fact or law which was overlooked or [to demonstrate that] the Commission failed to consider [such a point of fact or law] in rendering its decision.”<sup>4</sup> Submitting a brief in support of a motion for reconsideration is no substitute for the opportunity to present oral argument aimed at enhancing the Commission’s understanding of the issues at hand. While the parties’ post-trial briefs did address the threshold issue decided in the Order, it was but one issue in a multi-issue proceeding that considered many issues of interconnection and traffic exchange. Moreover, the presentation of this legal issue was extremely limited due to overall page limitations, and although the Commissioners, Staff, and parties had the opportunity to conduct extensive cross-examination on the factual issues in this docket, they had no opportunity to conduct oral argument on this critical legal issue.

Given the essential nature of 911\E911 services, and the Commission’s acknowledgement that this matter presents an issue of first impression, it is critical that the Commission avail itself of the means necessary to understand the nuances of the services and issues in question. This is particularly true here, because the Commission’s Order does not

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<sup>3</sup> *Id.* at 2.

<sup>4</sup> *Stewart Bonded Warehouse v. Bevis*, 294 So.2d 315 (Fla. 1974); *Diamond Cab Co. v. King*, 146 So.2d 889 (Fla. 1962); *Pingree v. Quaintance*, 394 So.2d 161 (Fla. 1st DCA 1981).

address half of the statutory definition of “telephone exchange service” under the federal Act and it altogether failed to consider the Commission’s compulsory arbitration power under Florida law. Section 364.01(1), Florida Statutes, grants this Commission exclusive jurisdiction to consider the matters delegated within Chapter 364, which includes the interconnection and arbitration requirements of sections 364.161 and 364.162. Intrado Comm specifically invoked these provisions as a basis for seeking interconnection and the exchange of traffic, yet no discussion of Florida law appears in the Order, and the parties have not had the opportunity to present oral argument on these issues of Florida law.

It is respectfully submitted that Intrado Comm has demonstrated in its motion for reconsideration that the Commission overlooked critical issues of fact and law and misunderstood the law and facts that it did consider. But given the vital public interests at stake and the novelty of the legal issues in question, the Commission should not forgo the opportunity to engage in a dialogue with the parties and, as a result, develop a deeper understanding of the complex facts and law at the heart of parties’ dispute.

WHEREFORE, Intrado Comm respectfully requests that it be granted oral argument on its motion for reconsideration.

Respectfully submitted,

**INTRADO COMMUNICATIONS INC.**



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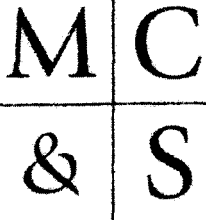
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December 18, 2008

**VIA ELECTRONIC FILING**

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Re: Docket No. 070699-TP

Dear Ms. Cole:

Enclosed for filing on behalf of Intrado Communications Inc. is an electronic version of the following documents:

1. Intrado Communications Inc. Motion for Reconsideration; and
2. Intrado Communications Inc. Request for Oral Argument.

Thank you for your assistance with this filing.

Sincerely yours,



Floyd R. Self

FRS/amb  
Enclosures

cc: Rebecca Ballesteros, Esq.  
Parties of Record

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the Responses were served on the following parties by Electronic Mail and/or U.S. Mail on this 18<sup>th</sup> day of December, 2008.

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