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Via Hand Delivery

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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**Re: Docket No. 070736-TP
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 BellSouth Telecommunications, Inc. d/b/a AT&T Florida**

Dear Ms. Cole:

Intrado Communications Inc. ("Intrado Comm"), by its attorneys, hereby respectfully requests the Florida Public Service Commission ("Commission") to establish a procedural schedule to review Intrado Comm's Petition for Arbitration against BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T") filed on December 21, 2007 in the above-referenced docket ("Petition") that recognizes the need for a prompt resolution of the issues.

Intrado Comm filed its Petition in order to prevent any further delay in Intrado Comm's efforts to interconnect and deploy its state-of-the-art local exchange services, including a competitive alternative to AT&T's 911 services. The lack of an interconnection arrangement with AT&T impedes Intrado Comm's efforts to offer competitive services to public safety organizations and the general public in Florida. As the Commission is aware, Intrado Comm seeks to offer a competitive alternative to the incumbent 911 network. To do so, however, Intrado Comm requires interconnection with incumbent local exchange carriers ("ILECs") such as AT&T to ensure that the customers of each carrier can seamlessly complete or receive life-saving emergency calls. An interconnection agreement is the underpinning of the business relationship between Intrado Comm and AT&T, and is necessary to ensure customers of both Parties receive seamless service that is of the highest quality.

Intrado Comm appreciates the decision by Commission Staff to move the arbitration proceeding forward by establishing the Issues Identification Meeting for March 6 and its understanding that it is appropriate at this stage to establish a full procedural schedule. As the Commission is aware, Intrado Comm and affiliates of AT&T are engaged in arbitration

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proceedings in three other states -- Ohio, North Carolina, and Alabama. Procedural schedules and deadlines have been established in each of those states, and the Parties have begun to file testimony and discovery requests pursuant to those schedules. Under the Ohio schedule, the arbitration proceeding will conclude with the issuance of an arbitration decision on May 28. Thus, much of what needs to be done in Florida, such as discovery, pre-filed testimony, etc., will exist in some adaptable format due to filings made earlier in the other states where arbitration schedules have been established. In light of this, Intrado Comm understands and appreciates the Commission's need for additional time to complete the arbitration, but feels it is important to stress that any date for hearings beyond the discussed June date would result in an arbitration order that could severely jeopardize Intrado Comm's ability to offer competitive services in the state of Florida.^{1/}

Adherence to the federal statutory framework as much as possible under current circumstances is critical to ensure the goals of promoting competition in Florida are achieved. The imperative for moving forward so that an interconnection agreement can be completed was demonstrated this week during the meetings of the Emergency Communications Number E911 Board's Grants Committee. Several Public Safety Answering Point ("PSAP") administrators have requested E911 grants under the Emergency Communications Number E911 Act^{2/} in order to purchase Intrado Comm's services and equipment. In supporting their requests, the Grants Committee expressed its concern that absent an interconnection agreement between Intrado Comm and the ILECs, the respective PSAPs would be unable to implement their grants in a timely manner as is required by the grant recipients. In the event a grant associated with Intrado Comm's services is denied, then the ILEC serving that PSAP would continue its monopoly hold on E911 services in that PSAP service area.

What is clear from that E911 Grants Committee discussion, is that an ILEC such as AT&T is receiving an unfair competitive advantage in the E911 grants process by any further delay in this arbitration docket in violation of the spirit and letter of the interconnection negotiation and arbitration process under federal and state law. Moreover, continued delay in the arbitration only serves to deny potential public safety customers with the ability to choose sophisticated and enhanced 911 network and services that Intrado Comm seeks to bring to the market. This market disadvantage is even greater than it appears because competitive telecommunications interests are not represented on the E911 Board.^{3/} The only way to begin to

^{1/} It would also result in an arbitration decision well beyond the statutory time frame based on the December filing of Intrado Comm's Petition.

^{2/} FLA. STAT. ANN. §§ 365.172-365.173.

^{3/} The E911 Board does not include a member that represents the interest of competitive telecommunications providers, thus, there is a strong probability that ILECs could influence the Board against adopting measures to promote competitive options. Any such effort would be in violation of the legislative mandate that requires the E911 Board to administer the E911 fee "in a manner that is competitively and technologically neutral as to all voice communications services providers." FLA. STAT. ANN. § 365.172(2)(d). Similar to the federal Universal Service Fund, the E911 Board should "(1) be neutral and impartial; (2) not advocate specific positions . . . in non-administration-related proceedings; (3) not be aligned or associated with any particular industry segment; and (3) not have a direct financial interest" in the provision of E911 service. *See Federal-State Joint Board on Universal Service*, Recommended Decision, 12 FCC Rcd 87, ¶ 830 (1996).

deliver on the promise of enhanced E911 services and to mitigate the negative consequences of regulatory delay is to proceed immediately to calendar Intrado Comm's Petition in order to provide public safety organizations the assurances they need that this Commission is moving expeditiously to ensure a real competitive option for the provision of E911 services. This is all the more compelling since the full E911 Board will be meeting on February 20 and 21 to make the final E911 grants.

The Florida legislature has found that "the competitive provision of telecommunications services . . . is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure."^{4/} The legislature also mandated that the Commission "[e]ncourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services" as well as "encourage all providers of telecommunications services to introduce new . . . telecommunication services."^{5/}

Historically the Commission has promoted the efforts of telecommunications providers to bring competitive and innovative offerings to residents of the State of Florida. The Commission has recognized that the "interests of all carriers, both incumbents and new entrants, must be balanced if open and effective competition is to develop."^{6/} It has also recognized that failure to reach interconnection arrangements are "potential barriers" to competitive entry.^{7/} With respect to E911 services, the Commission has found that "there is a competitive market for E911 terminal equipment" and has chastised the efforts of "[I]LECs [that] discriminate against other vendors" with respect to the provision of E911 systems.^{8/}

Thus, in order to promote competition among providers of 911 services, Intrado Comm appreciates the tremendous efforts of the Commission Staff this morning to begin the scheduling process. We strongly support these first steps, but we must reiterate the urgent need to not allow "regulatory delay" to creep into this schedule such that the actual case schedule is extended any further than that which was discussed this morning. Strict compliance with the basic schedule we discussed is the best means of ensuring that Intrado Comm is "treated fairly" by "preventing

^{4/} FLA. STAT. ANN. § 364.01(3).

^{5/} FLA. STAT. ANN. § 364.01(4)(b), (e).

^{6/} *Resolution of Petition(s) to Establish Nondiscriminatory Rates, Terms, and Conditions for Resale Involving Local Exchange Companies and Alternative Local Exchange Companies pursuant to Section 364.161*, Order No. PSC-96-0811-FOF-TP, at 58 (June 24, 1996).

^{7/} "Barriers for Competitive Local Exchange Companies," Florida Public Service Commission at www.psc.state.fl.us/utilities/telecomm/localcompetition/index.aspx.

^{8/} *Proposed Agency Action to Require Unbundling of E911 Terminal Equipment and Allow for the Competitive Provision of E911 Equipment by other than Service LEC*, Order No. 22996, at 7 (May 29, 1990); see also *See, e.g.*, Florida Emergency Communications Number E911 State Plan Act, 2007 Fla. Laws, Ch. 2007-78 (establishing 911 fees for the purpose of "establishing and provisioning E911 services, which may include next-generation deployment").

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anticompetitive behavior and eliminating unnecessary regulatory restraint.”^{9/} The Commission’s efforts to address Intrado Comm’s Petition will promote the goals of competition as well as promote the development and implementation of new and enhanced 911 services.

Please contact the undersigned with any questions concerning this filing.

Respectfully submitted,



Cherie R. Kiser

Counsel to Intrado Communications Inc.

cc: Lee Eng Tan
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Rebecca Ballesteros
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^{9/} FLA. STAT. ANN. § 364.01(4)(g) (2007).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Electronic Mail and U.S. Mail this 15th day of February, 2008.

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