

**Dorothy Menasco**

---

**From:** Smith, Debbie N. [ds3504@att.com]  
**Sent:** Tuesday, February 19, 2008 12:04 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Carver, J; Gurdian, Manuel; Tracy Hatch; Follensbee, Greg; Holland, Robyn P; Woods, Vickie  
**Subject:** Florida Docket No. 070736-TP  
**Importance:** High  
**Attachments:** Cole-letter.pdf

A. Debbie N. Smith  
Assistant to J. Phillip Carver  
AT&T Southeast  
150 South Monroe Street  
Suite 400  
Tallahassee, Florida 32301  
(404) 335-0772  
debbie.n.smith@att.com

B. Docket No. 070736-TP: 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 Florida

C. AT&T Florida  
on behalf of J. Phillip Carver

D. 7 pages total (includes letter, Attachment 1 and Attachment 2)

E. Cole letter from AT&T Florida responding to correspondence sent to Ms. Cole on February 15, 2008 by Intrado Communications, Inc. concerning the setting of a procedural schedule in the above-styled case.

<<Cole-letter.pdf>>

Debbie N. Smith  
Assistant to J. Phillip Carver & John T. Tyler  
AT&T Southeast  
675 West Peachtree Street, N.E.  
Suite 4300  
Atlanta, Georgia 30375  
(404) 335-0772  
Please note my new email address is debbie.n.smith@att.com

DOCUMENT NUMBER-DATE  
01308 FEB 19 08  
FPSC-COMMISSION CLERK

\*\*\*\*\*

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers. GA625



J. Phillip Carver  
Senior Attorney  
Legal Department

AT&T Florida  
150 South Monroe Street  
Suite 400  
Tallahassee, FL 32301

T: 404.335.0710  
F: 404.614.4054  
j.carver@att.com

February 19, 2008

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

**Re: Docket No. 070736-TP: 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 Florida**

Dear Ms. Cole:

This letter is in response to correspondence sent to you on February 15, 2008 by Intrado Communications, Inc. ("Intrado") concerning the setting of a procedural schedule in the above-styled case. This response is 1) to provide pertinent information regarding scheduling, and 2) to correct certain inaccuracies in Intrado's statements regarding what has occurred in cases before other State Commissions.

Despite the bellicose tone of Intrado's letter, Intrado ultimately does not appear to take issue with the procedural timeframe for this case that was discussed during the conference call held February 15, 2008. Intrado does imply that the prospect of a hearing in June is the only one that Intrado finds acceptable. A hearing in June is also acceptable to AT&T Florida. However, AT&T Florida appreciates the fact that this Commission must handle a large volume of cases that require hearings, and that there is an ongoing challenge in trying to move all of these many cases forward as expeditiously as possible. Accordingly, AT&T Florida also has no objection to the Commission setting the hearing at a later date, if such a setting is more workable within the broader framework of the Commission's schedule.

AT&T Florida, however, requests that if the hearing is set in June, it not be set for June 10, 2008 through June 13, 2008. The undersigned counsel has a hearing set before the Louisiana Public Service Commission on June 11 and 12, 2008 (a copy of the Order scheduling this hearing is attached hereto as Attachment 1). Further, the day before and after the hearing will be used for travel to and from Baton Rouge. For this reason, please do not set the hearing in the instant matter on June 10, 2008 through June 13, 2008.

The Second purpose of this letter is to point out that Intrado's scheduling demands are premised in part on incorrect statements as to what has occurred in

DOCUMENT NUMBER-DATE

01308 FEB 19 08

FPSC-COMMISSION CLERK



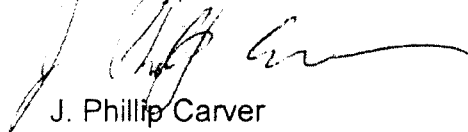
other states. Intrado correctly notes that there are similar proceedings in Ohio, North Carolina, and Alabama. Intrado's then states that "Procedural schedules and deadlines have been established in each of those states, and the Parties have begun to file testimony and discovery requests pursuant to those schedules." (Intrado letter, p. 2). This statement is incorrect as to both North Carolina and Alabama.

On January 29, 2008, the North Carolina Utilities Commission entered its *Order of Abeyance*. The *Order* holds the case in abeyance until March 14, 2008. The *Order* also sets forth that Intrado shall file testimony on March 25, 2008; AT&T shall file testimony on April 24, 2008, and Intrado shall file Rebuttal Testimony on May 5, 2008. The Parties are not only *not* filing testimony and discovery in the case in North Carolina at this time, they are *prohibited* from doing so by the North Carolina Commission's *Order of Abeyance* (a copy of which is attached hereto as Attachment 2). Moreover, the *Order on Abeyance* also instructs the parties to jointly file a "recommended procedural schedule" along with a joint issues matrix on March 28, 2008. (Id.). Thus, contrary to Intrado's representations, only a partial procedural schedule has been set in North Carolina, and no hearing has been set.

Intrado's representations regarding Alabama are also incorrect. The Alabama Public Service Commission has a rule that requires a party filing a Petition for Arbitration to file its testimony along with the Petition, a rule with which Intrado failed to comply. Intrado subsequently filed testimony that addresses less than half of the 37 issues raised by its Petition. Meanwhile, the Alabama Commission has not ruled on AT&T Alabama's Motion to dismiss the Petition or to hold the case in abeyance. Also, the Commission has not set a procedural schedule.

Again, AT&T Florida does not object to either a June hearing or a hearing at a later date. AT&T Florida does request that the hearing not be scheduled during the time period from June 10, 2008 to June 13, 2008. Thank you for your attention to this matter.

Sincerely,



J. Phillip Carver

cc: Lee Eng Tan (via electronic mail and U.S. Mail)  
Laura King (via electronic mail and U.S. Mail)  
Charlene Poblete (via electronic mail and U.S. Mail)  
Cherie R. Kiser (via electronic mail and U.S. Mail)  
Rebecca Ballesteros (via electronic mail and U.S. Mail)  
Floyd Self (via electronic mail and U.S. Mail)

LOUISIANA PUBLIC SERVICE COMMISSION  
ADMINISTRATIVE HEARINGS DIVISION

DOCKET NO. U-29172

DPI TELECONNECT, LLC  
VERSUS  
BELLSOUTH TELECOMMUNICATIONS, INC.

---

*In re: Dispute over Interpretation of the Parties' Interconnection Agreement.*

---

**NOTICE OF MODIFICATION OF PROCEDURAL SCHEDULE**

On January 23, 2008 BellSouth Telecommunications, Inc. ("BellSouth") and dPi Teleconnect, LLC ("dPi") filed a Joint Motion to Continue and Reset Filed Testimony, Prehearing and Hearing Dates. The motion requests that the current procedural schedule be reset to accommodate the completion of discovery and for the convenience of the parties and their counsel. The motion details the new dates requested by BellSouth and dPi, however the parties later modified the hearing dates after being informed of scheduling conflicts. The motion informs that Commission Staff does not object to the suggested dates.

***PLEASE TAKE NOTICE*** that the procedural schedule is modified as follows:

Tuesday, April 1, 2008      Direct Testimony by all Parties

Thursday, May 1, 2008      Rebuttal Testimony by all Parties

Monday, June 2, 2008      Pre-Hearing Statements

**Wednesday, June 11, 2008 -**

**Thursday, June 12, 2008 Hearing.** The hearing will commence at 9:30 a.m. on Wednesday, June 11, 2008 and continue as needed on Thursday, June 12, 2008 in the 11<sup>th</sup> Floor Hearing Room, Galvez Building, 602 North Street (Corner of North and North Fifth Streets), Baton Rouge, Louisiana.

If you are disabled and require special accommodation, please contact the Administrative Hearings Division at (225) 219-9417 at least five days prior to the status conference.

Baton Rouge, Louisiana, this 25<sup>th</sup> day of January, 2008.

cc: Official Service List  
via: US Mail and Fax

---

Carolyn L. DeVitis  
Administrative Law Judge

*Administrative Hearings Division  
11<sup>th</sup> Floor, Galvez Building  
602 North Fifth Street  
Post Office Box 91154  
Baton Rouge, Louisiana 70821-9154  
Telephone (225) 219-9417 Fax (225) 342-5611*

**Attachment 1**

Service List  
Docket No.: U-29172

All Commissioners  
Brandon Frey - LPSC Supervising Attorney

CPA- Christopher Malish, Foster Malish Blair & Cowan, LLP, 1403 West Sixth Street, Austin TX 78703 P: (512) 476-8591 F: ( 512) 477-8657 email: [chrismalish@foseermalish.com](mailto:chrismalish@foseermalish.com)

R- Victoria K. McHenry, Carmen S. Ditta, 365 Canal Street, Suite 3060, New Orleans, LA 70130 P: (504) 528-2050 F: (504) 528-2948 email: [Victoria.mchenry@bellsouth.com](mailto:Victoria.mchenry@bellsouth.com)  
on behalf of BellSouth

I- Paul F. Guarisco, Phelps Dunbar LLP, City Plaza, 445 North Boulevard, Suite 701, Baton Rouge LA 70802 P: (225) 346-0285 F: (225) 381-9197  
[paul.Guarisco@phelps.com](mailto:paul.Guarisco@phelps.com) on behalf of NewPhone

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. P-1187, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Petition of Intrado Communications, )  
Inc. for Arbitration with BellSouth ) ORDER OF ABEYANCE  
Telecommunications, Inc. d/b/a )  
AT&T North Carolina )

BY THE CHAIRMAN: On December 21, 2007, Intrado Communications, Inc. (Intrado) filed a Petition of Arbitration against BellSouth Telecommunications, Inc. d/b/a AT&T North Carolina (AT&T) for an interconnection agreement with AT&T so as to provide competitive 911 services. The Petition included well over 30 disputed issues. Intrado represented that "[t]he parties have been unable to reach agreement on any issue."

On December 28, 2007, the Commission issued an Order Extending Time for Prefiled Testimony as requested by Intrado. Prefiled testimony for Intrado was extended until January 10, 2008, that of AT&T until March 11, 2008, and rebuttal from Intrado until March 21, 2008.

AT&T Abeyance Motion

On January 15, 2008, AT&T filed a Response and Motion to Dismiss Intrado's Petition or, in the alternative, hold the Petition in Abeyance for a period of at least 60 days to allow the parties time to negotiate the issues. AT&T stated that Intrado had admitted that it had first presented the contract language in now seeks on December 18, 2007, only three days before it filed the Petition.<sup>1</sup> The Telecommunications Act contemplates that the Commission will arbitrate only "open issues" arising from negotiations, not a list of potential issues presented by the Petitioner who has not negotiated them with the Respondent. Intrado says that the parties have not been able to reach agreement on any issue; but, in truth, Intrado has no idea of AT&T's position on any of the "unresolved" issues. For all it knows, AT&T may be willing to accommodate it on many of its requests, and the way to find out is by

---

<sup>1</sup> AT&T stated that Intrado had requested negotiation with AT&T on May 18, 2007. On August 30, 2007, AT&T provided Intrado with the AT&T 9-state template interconnection agreement. Intrado responded by providing certain changes to that document on October 11, 2007; but, on December 18, 2007, Intrado sent to AT&T a marked-up version of AT&T's 13-state template interconnection agreement, which is currently the template for use in AT&T states *outside* of the Southeast region. By providing its changes in a format not used in the Southeast region, Intrado has complicated the process even more.

negotiating. Intrado claims that AT&T has been unwilling to negotiate in good faith, but this is not true.

Undeniably, the parties have not meaningfully negotiated the issues on which Intrado seeks arbitration, but ultimately it does not matter who is responsible for the current impasse. The fact remains that the parties are not ready to arbitrate, and the Commission should not be placed in the position of having to deal with the consequences by inordinately expending its time and resources. If the parties are unable to reach a complete accord on all issues, they will have at least been able to identify the remaining issues for arbitration.

#### Intrado Response

On January 23, 2008, Intrado filed a response in opposition to AT&T's Motion to Hold in Abeyance in which it stated that it had fully complied with the requirements of the Act and that the Motion should be denied. There is nothing premature or flawed in Intrado's Petition or in its approach to the arbitration. It has acted in good faith in attempting to negotiate, unlike AT&T. Certainly, its inclusion of issues for the first time in its Petition does not support holding the proceeding in abeyance. Even when Intrado provided AT&T with its proposed interconnection agreement on December 18, 2007, it gave AT&T some proposed dates for the parties to discuss Intrado's proposed changes, but AT&T did not respond to this request other than to acknowledge that it had received it. AT&T is only seeking further delay of Intrado's entry into the market by claiming additional negotiations are necessary.

Intrado also noted that it seeks to negotiate a multi-state interconnection agreement governing interconnection in each of AT&T's 22-state operating territory. Intrado has filed petitions for arbitration against AT&T ILECs in Ohio, Florida, and Alabama; and AT&T filed motions to similar to the one filed here in each of those states. On January 17, 2008, AT&T Ohio and Intrado agreed to extend the statutory deadline for the Ohio commission to act by thirty days and agreed to use those thirty days on the front end to engage in negotiations and mediations, with the procedural schedule to start immediately after the thirty-day period. AT&T Ohio also agreed to withdraw its motion. Since Intrado seeks a multi-state agreement, from a practical standpoint, there will only be one agreement between Intrado and the AT&T ILECs and, as such, Intrado has been dealing with one AT&T negotiation team. Thus, any negotiations that occur in the next thirty days as a result of the agreement reached in Ohio will affect the comprehensive interconnection agreement between Intrado and the AT&T ILECs and the relevant issues. Intrado made a similar request for a statutory extension of 45 days in North Carolina, but AT&T rejected this.

#### AT&T Reply

On January 28, 2008, AT&T filed a Reply to Intrado's Response. Among other points, AT&T reiterated its desire for a 60-day abeyance and recounted its version of the how it came to be that the parties could not agree on an extension.

WHEREUPON, the Chairman reaches the following

### CONCLUSIONS

After careful consideration of the filings in this docket, the Chairman concludes that good cause exists to hold the arbitration in this matter in abeyance until March 14, 2008 (approximately 45 days) and instructs the parties to negotiate earnestly and in good faith during the period allotted with a view toward resolving or clarifying the issues before the Commission. To that end, the prefiled testimony dates set forth in the December 28, 2007, Order are modified as follows: Intrado Prefiled Testimony, due on March 25, 2008; AT&T Prefiled Testimony, due April 24, 2008; and Intrado Prefiled Rebuttal, due on May 5, 2008. The parties are also instructed no later than March 28, 2008, to file with the Commission a joint recommended procedural schedule and a joint issues matrix as to the remaining issues.

The Chairman understands that the parties hold differing views as to who has and has not engaged in good faith negotiations. From the Commission's point of view, the more important thing at this stage is judicial efficiency. From even a cursory reading of the pleadings in this docket, it is evident that the process would greatly benefit—and would in all probability be rendered more expeditious—if the parties had a “time-out” in which to intensively explore together what can and cannot be resolved so that only truly open issues will be presented to the Commission for resolution. In at least one state, the parties appear to have recognized this. In Ohio the parties agreed to what amounts to a 30-day “time-out” to allow for further negotiations. Unfortunately, the parties foundered on an attempt to reach such an extension or its equivalent in North Carolina. The Chairman believes that a 45-day time-frame is appropriate and reasonable here.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 29<sup>th</sup> day of January, 2008.

NORTH CAROLINA UTILITIES COMMISSION

*Gail L. Mount*

Gail L. Mount, Deputy Clerk