

**Before the
PUBLIC UTILITIES COMMISSION OF OHIO**

<hr/>)	
Petition of Intrado Communications Inc. for Arbitration)	
Pursuant to Section 252(b) of the Communications Act of)	Case No. 07-1216-TP-ARB
1934, as amended, to Establish an Interconnection)	
Agreement with United Telephone Company of Ohio and)	
United Telephone Company of Indiana ("Embarq"))	
<hr/>)	

INTRADO COMMUNICATIONS INC.'S REPLY TO MEMORANDUM CONTRA

Intrado Communications Inc. ("Intrado Comm"), by its attorneys and pursuant to Rule 4901-1-12 of the Ohio Administrative Code, hereby files its reply to the memorandum contra filed by AT&T Ohio on July 7, 2008 in the above-referenced proceeding. As discussed in Intrado Comm's Motion to Strike, AT&T Ohio's unauthorized Reply Brief must be stricken because the filing violates the Commission's procedural rules, the Commission's arbitration rules, and the Communications Act of 1934, as amended ("Act").

Despite AT&T's claims to the contrary, Intrado Comm did provide a "legal basis" for its Motion to Strike.¹ Under the Commission's rules, AT&T is not a party in the instant proceeding, has not asked to intervene, and has not otherwise received authorization to file a brief in this proceeding. And at this late date, AT&T's attempt to interject itself in this proceeding is untimely² and prejudicial to Intrado Comm.³

While AT&T contends that its Reply Brief "is in the nature of an *amicus curiae* brief" and that the Commission has accepted such briefs in other proceedings,⁴ AT&T neglects to

¹ AT&T at 1.

² Rule 4901-1-11(E), O.A.C.

³ *Office of Consumers' Counsel v. Public Utils. Comm'n of Ohio*, 56 Ohio St. 2d (1978) (finding that allowing a party intervening by appearance only to broaden the issues in a proceeding creates "basic unfairness and potential prejudice" to the parties).

⁴ AT&T at 2.

mention that in each of the proceedings cited by AT&T, the Commission granted explicit permission for the filing of such briefs. Further, of the cases cited by AT&T, only one concerns a Section 252 arbitration proceeding. In that case, the parties seeking to file briefs respected the Commission's administrative process and prior to the arbitration hearing properly sought permission to intervene in the proceeding and to file briefs.⁵ The Commission also granted the parties to the arbitration the opportunity to file reply briefs in response. In the other two complaint proceedings cited by AT&T, each of the parties that filed *amicus* briefs did so pursuant to lawfully filed motions to intervene or other requests for permission to file such briefs.⁶

By contrast, AT&T never sought to intervene, never requested permission to file its Reply Brief, and filed its brief weeks after the arbitration hearing and after the procedural schedule left the parties to the arbitration without an opportunity to respond. In none of the cases cited by AT&T, did a party unilaterally and without prior Commission permission file a brief in a proceeding in which the party had no prior connection as AT&T has done here.

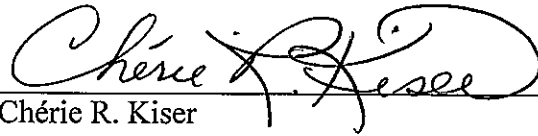
Accordingly, for these reasons and those set forth in Intrado Comm's Motion to Strike, Intrado Comm respectfully requests that the Commission strike AT&T Ohio's Reply Brief as unauthorized and impermissible under the Commission's rules, prior Commission precedent, and the Act.

⁵ Case No. 99-939-TP-ARB, *Petition of Time Warner Telecom of Ohio, L.P. for Arbitration with Cincinnati Bell Telephone Company pursuant to the Federal Telecommunications Act of 1996 and the Commission's Arbitration Rules*, Entry (Sept. 29, 1999); see also AT&T at n.1.

⁶ In Case 02-3207-AU-PWC cited by AT&T (AT&T at n.1), each of the parties filing a brief either filed for intervention or sought Commission permission to participate in the proceeding. See Case No. 02-3207-AU-PWC, *WorldCom, Inc., AT&T Corp., KMC Telecom III, LLC, and LDMI Telecommunications, Inc., Complainants v. City of Toledo, Respondent, et al.*, Opinion and Order (May 14, 2003) (noting the intervenors that filed *amicus* briefs and those that asked permission). In Case No. 03-324-AU-PWC cited by AT&T (AT&T at n.1), the Ohio Telecom Association filed a motion to intervene and the Commission specifically included briefs to be filed by intervenors in the procedural schedule for the case. See Case No. 03-324-AU-PWC, *Complaint of WorldCom, Inc., AT&T Corp.*,

Respectfully submitted,

INTRADO COMMUNICATIONS INC.



Chérie R. Kiser
Angela F. Collins
Cahill, Gordon & Reindel LLP
1990 K Street, NW, Suite 950
Washington, D.C. 20006
202-862-8900 (telephone)
202-862-8958 (facsimile)
ckiser@cgrdc.com
acollins@cgrdc.com

Sally W. Bloomfield
Brickler & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291
614-227-2368 (telephone)
614-227-2390 (facsimile)
sbloomfield@bricker.com

Craig W. Donaldson
Senior Vice President - Regulatory Affairs

Rebecca Ballesteros
Associate Counsel

Thomas Hicks
Director - Carrier Relations

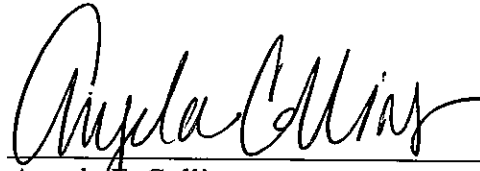
Intrado Communications Inc.
1601 Dry Creek Drive
Longmont, CO 80503
720-494-5800 (telephone)
720-494-6600 (facsimile)

Its Attorneys

Dated: July 14, 2008

CERTIFICATE OF SERVICE

I, Angela F. Collins, certify that on the 14th day of July 2008, I served a copy of the foregoing Reply to Memorandum Contra on the following via electronic mail and U.S. mail, postage prepaid.



Angela F. Collins

Mary Kay Fenlon
Jon F. Kelly
AT&T Ohio
Room 4-A
150 East Gay Street
Columbus, OH 43215
mfl842@att.com

Joseph R. Stewart
Senior Counsel
Embarq
50 W. Broad Street, Suite 3600
Columbus, OH 43215
joseph.r.stewart@embarq.com

Susan Masterton
Senior Counsel
Embarq
1313 Blair Stone Road
Tallahassee, FL 32301
susan.masterton@embarq.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/14/2008 4:49:37 PM

in

Case No(s). 07-1216-TP-ARB

Summary: Reply of Intrado Comm to Memorandum Contra electronically filed by Teresa Orahod on behalf of Intrado Communications Inc.