

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Intrado)
Communications, Inc.)
To Provide Facilities Based and Resold)
Services Within the State of Ohio)

Case No. 08-1289-TP-ACE

MOTION TO INTERVENE OF
UNITED TELEPHONE COMPANY OF OHIO d/b/a EMBARQ

Pursuant to § 4903.221 of the Revised Code and Rules 4901:1-6-09(J) and 4901-1-11 of the Ohio Administrative Code, United Telephone Company of Ohio d/b/a Embarq ("Embarq"), hereby moves to intervene in this proceeding.

Embarq has real and substantial interests in this proceeding, and those interests may be adversely affected by its outcome. No other party to the proceeding can adequately represent Embarq's interests. The reasons in support of Embarq's motion to intervene are more fully set forth in the Memorandum in Support, *infra*.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

Intrado Communications, Inc. (“Intrado”) has filed an application to obtain certification as a CLEC in Embarq’s territory. Intrado previously was granted authority by the Public Utilities Commission of Ohio (“Commission”) to provide competitive emergency services in Embarq’s territory (and other areas) in Case No. 07-1199-TP-ACE (“911 Case”). Thus, Intrado has already obtained the ability to compete with Embarq in the provision of emergency services.

Intrado and Embarq were unable to reach agreement on an interconnection agreement and arbitrated the unresolved issues in PUCO Case No. 07-1216-TP-ARB (“the Arbitration”). Intrado did not obtain in the Arbitration a number of things it wanted. For example, the Commission rejected Intrado’s claim that all the interconnection arrangements and services it desired were subject to §251(c) of the Act.¹ In resolving Issue 2 in Embarq’s favor, the Commission stated:

Although Intrado analogizes its position to that of CLECs that maintain provisions in their tariff despite the fact that they do not offer all such services, the Commission is not persuaded by Intrado's arguments. Specifically, the Commission notes that Intrado is currently certified as a competitive emergency services telecommunications carrier, and not as a CLEC. In light of its restricted certification, the scope of its permitted offerings is limited in nature and cannot be expanded until such time that its certification has been expanded accordingly.²

Now that Intrado has decided to seek certification as a CLEC, Embarq is concerned that Intrado may attempt to use its CLEC status improperly to obtain certain services at prices it was unable to win in the Arbitration. If Intrado were to do this, Intrado would be able to compete unfairly with Embarq, in addition to subverting the intent of the Commission’s Award. This shows that Embarq may be adversely affected by the outcome of this case. If the Commission

¹ PUCO Case No. 07-1216-TP-ARB, Arbitration Award (September 24, 2008), (“Award”) at 8, 9.

² Id. at 13.

grants Intrado CLEC authority, the Commission must adopt the proper safeguards to prevent Intrado from mis-using its CLEC status to achieve what it did not get in the Arbitration. Without the proper safeguards, Intrado would be able to compete unfairly with Embarq, thereby harming Embarq's financial interests.

Embarq is also entitled to intervention pursuant to OAC §4901-1-11. Subsection (A) of that rule mandates intervention upon a showing that a person is granted the right to intervene by either a statute of Ohio or of the United States. Embarq satisfies this requirement by virtue of Ohio Rev. Code Section 4903.221 which grants Embarq the right to intervene because Embarq may be adversely affected.

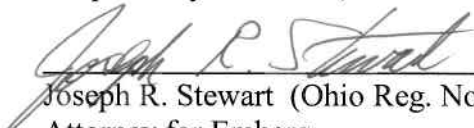
In addition, Section 4901-1-11 (A)(2) provides Embarq the right to intervene because Embarq has a real and substantial interest in the proceeding and is so situated that disposition of the proceeding may, as a practical matter, impair or impede Embarq's ability to protect that interest. As Embarq demonstrated above, Embarq has a substantial interest in this matter and, unless Embarq is permitted to intervene, the disposition of this proceeding may impair or impede Embarq's ability to protect its interests. Further, Embarq's interest is not adequately represented by any existing party.

OAC §4901-1-11(B) sets forth certain criteria that may be considered in ruling upon a motion to intervene. Embarq satisfies all those criteria. Embarq has a direct financial interest in this proceeding, and that interest is not represented by any existing party. Embarq will contribute to a just and expeditious resolution of the issues involved in this proceeding because it has subject matter expertise with respect to pertinent issues. Embarq further submits that granting intervention will not unduly delay this proceeding or unjustly prejudice any existing party.

Embarq's intervention is also consistent with OAC §4901:1-6-09(J) which provides that interested entities that can show good cause why an application to offer telecommunications services should not be granted must file a motion to intervene within fifteen calendar days after the application is docketed. Embarq's motion to intervene is timely filed pursuant to that provision.

For all the foregoing reasons, the Embarq respectfully requests that the Commission grant Embarq's motion to intervene.

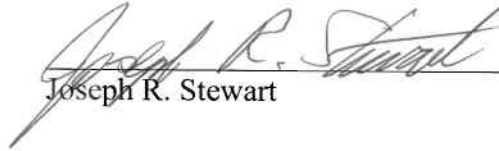
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion to Intervene was served upon the parties listed below by regular U.S. mail, postage prepaid, this 23rd day of December 2008.



Joseph R. Stewart

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Summary: Motion Motion to Intervene of Embarq electronically filed by Sonya I Summers on behalf of United Telephone Company of Ohio d/b/a Embarq