

January 13, 2012

Jay Agranoff, Attorney Examiner  
Public Utilities Commission of Ohio  
180 East Broad Street, 12th Floor  
Columbus, Ohio 43215-3793

Re: *Infotelecom v. AT&T*  
Case No. 11-4887-TP-CSS

Dear Mr. Agranoff:

This letter is to inform you that Infotelecom and AT&T have agreed to further stay this proceeding until the earlier of (1) April 14, 2012; or (2) the bankruptcy court in Case No. 11-18945 (Bankr. N.D. Ohio) orders otherwise.

By way of background, on October 18, 2011, Infotelecom filed a petition for bankruptcy. Shortly afterwards, Infotelecom filed a notice of bankruptcy and suggestion of stay in this proceeding. Infotelecom and AT&T disagree about the impact and applicability of the bankruptcy case and the bankruptcy stay on this proceeding. On October 21, 2011, Infotelecom filed a motion against AT&T at the bankruptcy court seeking to enforce the bankruptcy stay and stay this proceeding (and other proceedings with related AT&T entities). On October 24, 2011, AT&T filed an opposition to Infotelecom's bankruptcy motion.

On November 15, 2011, in order to resolve the bankruptcy motion, Infotelecom and AT&T agreed to a stipulated stay of this proceeding until the earlier of (1) January 15, 2012; or (2) the bankruptcy court orders otherwise. As the bankruptcy case has progressed further, the parties have agreed to further stay this proceeding in order to resolve a motion by AT&T to compel reasonable compensation and related relief. The further stipulation, as entered by the bankruptcy court, is attached as **Exhibit A**.

Thus, Infotelecom respectfully requests that this case be stayed until the earlier of (1) April 14, 2012; or (2) one of the parties files a notice of a bankruptcy ruling otherwise. Infotelecom will inform you of the status of the agreed-upon stay on a to-be scheduled conference call to occur shortly after April 14, 2012.

Respectfully submitted,

/s/ Lawrence D. Walker

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*Counsel for Ohio Bell Telephone Company  
d/b/a AT&T Ohio*

IT IS SO ORDERED.

Dated: 12 January, 2012 04:09 PM

*Jessica E. Price Smith*

JESSICA E. PRICE SMITH  
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In re

INFOTELECOM, LLC,

Debtor.

) Chapter 11

) Case No. 11-18945

) Judge Jessica E. Price Smith

**STIPULATED ORDER RESOLVING THE AT&T COMPANIES' MOTION  
SEEKING REASONABLE COMPENSATION AND RELATED RELIEF**

The AT&T Companies<sup>1</sup> and Infotelecom, LLC, debtor and debtor in possession (the “**Debtor**”) enter into this Stipulated Order to resolve the issues presented by the AT&T Companies’ motion to compel reasonable compensation and for related relief [Dkt. No. 102] (the “**Motion**”). The Debtor and the AT&T Companies (together, the “**Parties**”) stipulate as follows:

<sup>1</sup> Capitalized terms used but not defined herein are defined in the Motion.

WHEREAS, on December 12, 2011, the Debtor filed its Objection to the Motion [Dkt No. 119] and, on December 16, 2011, the AT&T Companies filed their Reply in further support of the Motion (the “**Reply**”) [Dkt No. 122];

WHEREAS, the AT&T Companies and the Debtor are parties to certain interconnection agreements that were executed prior to the Petition Date (the “**ICAs**”);

WHEREAS pursuant to the ICAs, the AT&T Companies provide certain services to the Debtor, including, among other things, services related to the transport and termination of local and long distance (interstate and intrastate) IP-PSTN traffic sent by the Debtor to the AT&T Companies for termination to the AT&T Companies’ end-user customers (the “**IP-PSTN Traffic Termination Services**”);

WHEREAS, prior to the Petition Date, a dispute arose between the Debtor and the AT&T Companies regarding the Debtor’s payment and related escrow obligations with respect to the long distance IP-PSTN Traffic Termination Services being provided by the AT&T Companies pursuant to the ICAs and such dispute continued following the Petition Date with respect to the postpetition services provided by the AT&T Companies;

WHEREAS, pursuant to the Stipulation and Consent Order between the Debtor and the AT&T Companies entered by this Court on November 21, 2011 [Dkt No. 82] (the “**Stay Stipulation**”), all pending non-bankruptcy proceedings regarding the Parties’ respective rights and obligations under the ICAs were stayed until the earlier of (1) January 15, 2012; or (2) the Court orders otherwise;

WHEREAS, the AT&T Companies assert that the ICA governing California was terminated by AT&T California prior to the Petition Date, and the Debtor disputes this assertion;

WHEREAS, on November 18, 2011, the FCC issued an order (the “**FCC VoIP Order**”) that will become effective on December 29, 2011 (the “**FCC Order Effective Date**”);

WHEREAS, as set forth in the Motion and Reply, the AT&T Companies assert that (1) the ICAs require the Debtor to pay for all postpetition long distance IP-PSTN Traffic Termination Services provided by the AT&T Companies from and after the Petition Date at applicable interstate switched access service rates consistent with the terms of the FCC VoIP Order and (2) the AT&T Companies are entitled to payment for such services at the applicable interstate access service rate as reasonable compensation for such services;

WHEREAS, as set forth in the Objection, the Debtor asserts that it is not required by the ICAs and/or the FCC VoIP Order to pay the AT&T Companies for postpetition long distance IP-PSTN Traffic Termination Services at the applicable interstate switched access service rate;

WHEREAS, the Debtor has represented to the AT&T Companies, the Court, and other parties in interest in its bankruptcy case that it is modifying its business plan immediately, as a result of the FCC VoIP Order and that it will discontinue delivering long distance (interstate or intrastate) IP-PSTN traffic to the AT&T Companies following the FCC Order Effective Date; and

WHEREAS, based on the foregoing the Parties have agreed to resolve the issues presented by the Motion pursuant and subject to the terms set forth in this Stipulated Order;

**IT IS HEREBY STIPULATED, ORDERED AND AGREED THAT:**

1. On and after the FCC Order Effective Date, the Debtor shall pay for all long distance IP-PSTN Traffic Termination Services provided by the AT&T Companies at the

applicable interstate switched access service rates and for local IP-PSTN Traffic Termination Services at the rate of \$0.00035 per minute of use. Whether the IP-PSTN traffic delivered by the Debtor to the AT&T Companies is long distance or local traffic shall be determined based upon the "calling" and "called party" information delivered to the Debtor by its customers, and the Debtor shall provide to the AT&T Companies accurate calling and called party information for all IP-PSTN traffic delivered to the AT&T Companies precisely as it is delivered to the Debtor by its customers. The Debtor represents that calling and called party information delivered to the Debtor by Broadvox LLC and/or any affiliate of the Debtor has not been and will not be manipulated or altered in any manner by Broadvox LLC and/or any affiliate of the Debtor. In the event that the Debtor becomes aware that any customer delivering traffic to the Debtor has manipulated or altered the calling and called party information delivered to the Debtor, the Debtor shall (a) immediately notify the AT&T Companies of the same, (b) immediately discontinue delivering traffic provided by such customer and (c) pay for any such traffic delivered to the AT&T Companies at the rate applicable based on the original unaltered and/or unmodified calling and called party information.

2. The Debtor represents that, to the best of its knowledge based on representations made by its customers, all traffic it delivers to the AT&T Companies postpetition is and will be IP-PSTN traffic and does not include any calls that originated in a format other than internet protocol format, including traditional wireline or wireless calls ("**Non-VoIP Traffic**"). In the event that the AT&T Companies demonstrate that the Debtor delivers or has delivered postpetition any Non-VoIP Traffic to the AT&T Companies, the Debtor shall pay for the services provided by the AT&T Companies in

connection with such Non-VoIP Traffic at the rates provided for such traffic under the ICAs and/or applicable tariffs. The Debtor represents to the best of its knowledge based on representations made by its customers that all traffic delivered to the Debtor by Broadvox LLC and/or any affiliate of the Debtor has not been and will not be Non-VoIP Traffic. In the event that the Debtor becomes aware that any traffic delivered by a customer to the Debtor is Non-VoIP traffic, the Debtor will immediately notify the AT&T Companies of the same and immediately discontinue delivering traffic provided by such customer.

3. Within three (3) business days following the entry of this Stipulated Order, the Debtor shall pay into escrow subject to an agreement acceptable to the Debtor, the AT&T Companies, and the Committee \$500,000 (the **"Escrow Payment"**) with respect to amounts that the AT&T Companies assert are owed on account of long distance IP-PSTN Traffic Termination Services provided to the Debtor during the period from October 18, 2011 through the FCC Order Effective Date (the **"Pre-Effective Date Period"**). It is understood that (a) the AT&T Companies assert that the amount that the Debtor is obligated to pay for services provided by the AT&T Companies during the Pre-Effective Date Period exceeds the amount of the Escrow Payment and (b) the Debtor asserts that the amount the Debtor is obligated to pay for services provided by the AT&T Companies during the Pre-Effective Date Period is less than the amount of the Escrow Payment.

4. On or before January 15, 2012, the AT&T Companies will file a motion (the **"Allowance Motion"**) with the Court seeking allowance and payment of a claim pursuant to section 503(b) of the Bankruptcy Code (the **"Pre-Effective Date Administrative Claim"**) for the services provided by the Debtor during the Pre-Effective Date Period. For the avoidance of doubt, nothing in this Stipulated Order is, or shall be deemed to constitute,



an admission, acknowledgement, or waiver by either the Debtor or the AT&T Companies with respect to (a) the appropriate rates and/or charges for long distance IP-PSTN Traffic Termination Services provided by the AT&T Companies at any time prior to the end of the Pre-Effective Date Period; (b) the construction of the provisions of the ICAs; or (c) whether the California ICA was properly terminated prior to the Petition Date; and the rights of the Parties with respect to such matters and all arguments pertaining thereto are expressly reserved.

5. In the event the Court enters an order that becomes a final non-appealable order with respect to the Allowance Motion that allows the Pre-Effective Date Administrative Claim, then the amount of the Escrow Payment up to the allowed amount of the Pre-Effective Date Administrative Claim shall be paid to AT&T, subject to paragraph 6 hereof. In the event the Court enters an order that becomes a final non-appealable order with respect to the Allowance Motion that disallows the Pre-Effective Date Administrative Claim, the Escrow Account shall be returned to the Debtor.

6. In the event this Court determines (or the Parties agree) that there are insufficient funds in the Debtor's estate to pay all administrative claimants in full and the amount of the Escrow Payment paid to the AT&T Companies (together with any other postpetition payments made to the AT&T Companies) exceeds the amount that AT&T Companies would be entitled to receive on account of their postpetition administrative claims against the Debtor, the AT&T Companies shall, pursuant to further order of this Court, pay to the Debtor's estate an amount equal to the difference between the amount of the Escrow Payment paid to the AT&T Companies (together with any other postpetition

payments made to the AT&T Companies) and the amount the AT&T Companies would have received if such payments had not been made.

7. In the event the Debtor fails to timely pay (a) the Escrow Payment; or (b) any amounts billed by the AT&T Companies in good faith and in accordance with the ICAs and the Parties' current commercial practices for services provided after the FCC Order Effective Date, as and when such amounts are due and payable, the AT&T Companies shall provide the Debtor, its counsel, the Office of the United States Trustee, and counsel to the Committee of Unsecured Creditors appointed in Debtor's bankruptcy case, with written notice (the "**Cure Notice**") of the Debtor's failure to make such payment and the Debtor shall have three (3) business days to (x) make the required payment (the "**Cure Payment**") or (y) in the event the Debtor disputes the calculation of the amount billed for such services, resolve the dispute pursuant to the terms of the Debtor's existing agreements with the AT&T Companies or applicable non-bankruptcy law, including those sections relating to required deposits of the amount in dispute in escrow with a third-party escrow agent acceptable to the AT&T Companies pending resolution of such dispute (the "**Other Escrow Deposit**"). Unless the Debtor makes the Cure Payment or Other Escrow Deposit within three (3) business days after the delivery of the Cure Notice, without further order of the Court, the automatic stay shall be deemed lifted and the AT&T Companies shall be authorized to discontinue providing services. To the extent, if any, that the AT&T Companies are required by any non-bankruptcy law to obtain, in addition to this Stipulated Order, the consent or approval of any person or entity in order to effectuate such discontinuation of service, the automatic stay shall be deemed lifted to the extent required to enable the AT&T Companies to obtain such consent or approval and the Debtor shall be

deemed hereby to have consented to the granting of such consent or approval in all respects.

8. The Parties agree that the stay of the non-bankruptcy proceedings provided by the Stay Stipulation shall be extended until the earlier of (1) April 14, 2012; or (2) the Court orders otherwise, including, without limitation, in the event the automatic stay is deemed lifted pursuant to the provisions of Paragraph 7 of this Order. All rights with respect to whether the automatic stay of Section 362(a) of the Bankruptcy Code applies to such proceedings are expressly reserved; provided, however, that nothing set forth herein shall be construed as providing for the automatic lifting of the automatic stay (to the extent it applies to such actions) on or after April 14, 2012, other than as provided in Paragraph 7 of this Order.

9. As long as the Debtor timely pays undisputed amounts and escrows disputed amounts billed by the AT&T Companies for services provided after the FCC Order Effective Date in accordance with the terms of this stipulation, the AT&T Companies shall not seek further relief from the Bankruptcy Court under Sections 365 or 366 of the Bankruptcy Code.

10. Nothing herein shall be construed as altering, amending, modifying or otherwise relieving the Debtor of its obligation to pay for any other services provided to the Debtor and not addressed in this Order, and the AT&T Companies' rights and remedies with respect thereto are hereby reserved.

11. Nothing herein shall constitute any determination whatsoever with respect to any prepetition proof of claim or postpetition administrative expense claim that any of the AT&T Companies might assert against the Debtor or its bankruptcy estate. All rights,

claims, and defenses of any of the Parties with respect to any such claims are expressly preserved.

12. Nothing herein shall constitute any determination whatsoever with respect to any disputes between or among the Debtor and the AT&T Companies pending in state public utility commissions, the United States District Court for the District of Connecticut, or the United States Court of Appeals for the Second Circuit. All rights claims and defenses of any of the Parties with respect to such disputes are expressly preserved.

13. Nothing herein shall constitute an assumption or rejection of any of the interconnection agreements between the Debtor and any of the AT&T Companies.

14. Except as set forth herein, nothing in this Stipulation shall affect the Parties' rights under Sections 362, 365, and/or 366 of the Bankruptcy Code.

15. Nothing in this Stipulation shall be or shall be deemed to constitute an admission that the AT&T Defendants are or are not "utilities" as that term is used in Section 366 of the Bankruptcy Code.

16. This Stipulation shall bind the successors and assigns of the Parties.

17. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

SEEN AND AGREED:

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Dated January \_\_\_\_, 2012

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Summary: Correspondence electronically filed by Mr. Lawrence D. Walker on behalf of Infotelecom, LLC