

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Petition of Intrado Communications of Virginia)
Inc. Pursuant to Section 252(e)(5) of the)
Communications Act for Preemption of the)
Jurisdiction of the Virginia State Corporation) WC Docket No. 08-33
Commission Regarding Arbitration of an)
Interconnection Agreement with Central)
Telephone Company of Virginia and United)
Telephone – Southeast, Inc. (collectively, Embarq))

ORDER

Adopted: July 18, 2011

Released: July 18, 2011

By the Chief, Wireline Competition Bureau:

1. The two parties to this interconnection arbitration proceeding, Intrado Communications of Virginia Inc. (Intrado) and Central Telephone Company of Virginia and United Telephone – Southeast, Inc. (collectively, CenturyLink), have negotiated an interconnection agreement that renders the issues in the arbitration moot. This Order grants the parties’ joint motion that we approve that agreement and terminate the captioned proceeding.

2. On March 6, 2008, Intrado filed a petition, pursuant to section 252(e)(5) of the Communications Act of 1934, as amended (Act),¹ requesting that the Commission preempt the jurisdiction of the Virginia State Corporation Commission (Virginia Commission) with respect to the arbitration of an interconnection agreement between Intrado and CenturyLink.² On June 4, 2008, the Wireline Competition Bureau (Bureau) released an order granting Intrado’s Preemption Petition and preempting the Virginia Commission’s jurisdiction over the Intrado/CenturyLink arbitration.³

¹ 47 U.S.C. § 252(e)(5) (2010).

² See Petition of Intrado Communications of Virginia Inc., WC Docket No. 08-33 (filed Mar. 6, 2008) (Preemption Petition). At the time Intrado filed the Preemption Petition, Central Telephone Company of Virginia and United Telephone—Southeast, Inc. were subsidiaries of Embarq Corporation (Embarq). On June 25, 2009, the Commission approved a merger between Embarq and CenturyTel, Inc. See *Applications Filed for the Transfer of Control of Embarq Corporation to CenturyTel, Inc.*, WC Docket No. 08-238, Memorandum Opinion and Order, 24 FCC Rcd 8741 (2009). The merged company is now known as CenturyLink.

³ See *Petition of Intrado Communications of Virginia Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of Jurisdiction of the Virginia State Corporation Commission Regarding Arbitration of an Interconnection Agreement with Century Telephone Company of Virginia and United Telephone – Southeast, Inc. (collectively, Embarq)*, WC Docket No. 08-33, Memorandum Opinion and Order, 23 FCC Rcd 8715 (WCB 2008) (*Preemption Order*). The Commission has authorized the Chief, Common Carrier Bureau (now Wireline Competition Bureau) to serve as the arbitrator in section 252(e)(5) proceedings. *Procedures for Arbitrations Conducted Pursuant to Section 252(e)(5) of the Communications Act of 1934, As Amended*, Order, 16 FCC Rcd 6231, 6233, para. 8 (2001).

3. In accordance with the Bureau's Preemption Order, Intrado filed a petition for arbitration with the Commission on August 13, 2008.⁴ On June 17, 2011, Intrado and CenturyLink filed a Joint Motion for Approval of Agreement, explaining that they had negotiated an interconnection agreement that renders all issues raised in the petition for arbitration moot and seeking approval of that agreement.⁵

4. Section 51.805(a) of the Commission's rules states that once the Commission has assumed jurisdiction over an arbitration proceeding pursuant to section 252(e)(5) of the Act, it "shall retain jurisdiction over such proceeding" and it shall, "[a]t a minimum . . . approve or reject any interconnection agreement adopted by negotiation, mediation or arbitration for which the Commission . . . has assumed the [state commission's] responsibilities."⁶

5. The Bureau has reviewed the agreement negotiated between Intrado and CenturyLink. The parties reached an agreement on the rates, terms and conditions for interconnection pursuant to section 251(a) of the Act.⁷ The Bureau has determined that neither of the grounds for rejection of a negotiated agreement set forth in section 252(e)(2)(A) are present.⁸ We therefore approve the agreement and grant the Joint Motion. The Bureau makes no determination regarding whether Intrado is or was entitled to interconnection under section 251(c) of the Act for the service at issue in the arbitration. The Commission will no longer have jurisdiction over the Intrado/CenturyLink arbitration upon release of this Order.⁹

6. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 252 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 252, and sections 0.91, 0.291, 51.805, and 51.807 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 51.805, and 51.807, the parties' Joint Motion for Approval of Agreement IS GRANTED.

⁴ See *Petition of Intrado Communications of Virginia Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as Amended, to Establish an Interconnection Agreement with Central Telephone Company of Virginia and United Telephone – Southeast, Inc. (collectively, "Embarq")*, WC Docket No. 08-33, Petition for Arbitration (filed Aug. 13, 2008).

⁵ See Joint Motion for Approval of Agreement, WC Docket No. 08-33 (filed June 17, 2011) (Motion).

⁶ 47 C.F.R. § 51.805(a).

⁷ See Motion at 2.

⁸ See 47 U.S.C. § 252(e)(2)(A) ("The State commission may only reject—(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that—(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity . . .").

⁹ Once the Commission has concluded an interconnection arbitration with approval of an agreement, it does not retain jurisdiction over any subsequent amendments to that agreement. See *Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket No. 00-218, *Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc.*, CC Docket No. 00-251, Memorandum Opinion and Order, 20 FCC Rcd 5279, 5297, para. 50 (WCB 2005) (granting motion to strike filing of an amendment to an arbitrated interconnection agreement because the amendment had been negotiated subsequent to the arbitration's conclusion).

7. IT IS FURTHER ORDERED that, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the proceeding in WC Docket No. 08-33 IS TERMINATED, and the docket is closed.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief
Wireline Competition Bureau