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January 27, 2000

**VIA HAND DELIVERY**

Mr. Dale Roberts  
Executive Secretary  
Missouri Public Service Commission  
301 West High Street, Suite 530  
Jefferson City, Missouri 65101

**FILED**

JAN <sup>27</sup> 2000

**Missouri Public  
Service Commission**

Re: *In the Matter of the Petition of DIECA Communications, Inc. d/b/a Covad  
Communications Company for Arbitration of Interconnection Rates, Terms,  
Conditions and Related Arrangements With Southwestern Bell Telephone  
Company  
Case No. TO-2000-322*

Dear Mr. Roberts:

Enclosed for filing with the Commission is the Motion to Modify Procedural Schedule and for Expedited Consideration. The original and fourteen (14) copies of this document will be forwarded by Federal Express for delivery on January 28, 2000.

Please do not hesitate to contact me if you should have any questions. Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

*Lisa Creighton (cmw)*  
Lisa C. Creighton

LCC/cmw  
Enclosures

cc: Office of Public Counsel  
Office of General Counsel

FILED

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION JAN <sup>27</sup> 31 2000 *mb*

IN THE MATTER OF THE PETITION OF )  
DIECA COMMUNICATIONS, INC. )  
D/B/A COVAD COMMUNICATIONS COMPANY )  
FOR ARBITRATION OF INTERCONNECTION )  
RATES, TERMS, CONDITIONS AND RELATED )  
ARRANGEMENTS WITH SOUTHWESTERN )  
BELL TELEPHONE COMPANY )

Missouri Public  
Service Commission

Case No. TO-2000-322

**MOTION TO MODIFY PROCEDURAL SCHEDULE AND FOR EXPEDITED  
CONSIDERATION**

COMES NOW DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad") by its undersigned attorneys, and moves the Commission for an order modifying the Procedural Schedule to allow simultaneous filing of surrebuttal testimony to take place on February 10, 2000, and to change the date for the start of the hearing to February 15, 2000. Covad further requests expedited consideration as the first procedural date it seeks to modify is February 3, 2000, four business days from the date of this filing.<sup>1</sup> In support of this motion, Covad states as follows:

1. On January 7, 2000, the parties filed direct testimony with the Commission. On January 28, 2000, the parties will file rebuttal testimony with the Commission. The Procedural Schedule requires the parties to file surrebuttal testimony on February 3, 2000. The hearing is scheduled to begin on February 8, 2000, and continue on February 9<sup>th</sup> and 15<sup>th</sup>, if necessary. In this motion, Covad seeks to extend the time for filing of surrebuttal testimony until February 10,

<sup>1</sup> Counsel for Southwestern Bell Telephone Company (SWBT) was notified yesterday of Covad's intention to make this filing and agreed to expedite SWBT's response.

2000, and to change the hearing date to February 15, 2000, and continuing on February 16<sup>th</sup>, if necessary. Covad is requesting these modifications for two reasons.

2. First, on January 25, 2000, the Commission granted Covad's Motion to Compel Responses to Covad's First Set of Data Requests, specifically, Data Request Nos. 1, 2, 3, 13, 14, 16, 17, 19, 31, 32, 48, 49, 50, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 66, 74, 75, 76, 77, 78, 79, 85, 86. SWBT was ordered to make the requested information available by February 4, 2000. SWBT has made no commitment to make this requested information available prior to February 4, 2000, which is one day *after* the filing date for surrebuttal testimony and a mere four days (including Saturday and Sunday) *before* the scheduled start of the hearing under the current Procedural Schedule. Further, SWBT has represented that the documents designated highly confidential will be produced in St. Louis, requiring Covad's counsel and witnesses, none of whom reside in St. Louis, to travel there to review documents. The Commission determined that Covad's data requests are "relevant to determining the terms of a just, reasonable, and nondiscriminatory interconnection agreement," and Covad must address and incorporate SWBT's responses to these Data Requests in its surrebuttal testimony. Covad anticipates needing additional time, until February 10, 2000, to review SWBT's responses and documents, incorporate that information in its surrebuttal testimony.<sup>2</sup>

3. Second, lead counsel for Covad, Ms. Laura Izon, has been seriously ill since January 17, 2000, and has been unavailable to work on this arbitration because of her illness. Ms. Izon's first day back to the office was January 26, 2000, and her return is only on a limited basis at this point.

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<sup>2</sup> Covad has also scheduled a deposition for February 3, 2000 that it will reschedule as a result of the Commission's Order, as it will be necessary to review the responses and documents before

4. Because of the request to extend the deadline for filing of surrebuttal testimony to February 10, 2000, and the reasons stated in support thereof, Covad also requests that the hearing date be changed to February 15, 2000, and continuing on February 16<sup>th</sup>, if necessary.

5. Counsel for SWBT was contacted on January 26, 2000, and does not consent to the modification of the Procedural Schedule requested herein. Counsel for Staff was contacted about the requested modifications and, due to the expedited nature of this filing, was unable to provide Staff's position before the filing was made.

6. This request for an extension of time is not submitted for any improper purpose. No party will be unduly prejudiced by the granting of this motion.

For the foregoing reasons, Covad respectfully requests that the Arbitrator grant this motion to modify the Procedural Schedule to allow simultaneous filing of surrebuttal testimony to take place on February 10, 2000 and to change the date for the start of the hearing to February 15, 2000, and continuing on February 16<sup>th</sup>, if necessary.

(..continued)  
the deposition. Assuming that the requested modifications will be granted, the deposition will be rescheduled to February 8, 2000.

Respectfully submitted,



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ATTORNEYS FOR DIECA COMMUNICATIONS, INC.  
D/B/A COVAD COMMUNICATIONS COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was transmitted via facsimile and mailed, postage prepaid, this 27th day of January, 2000, to:

Paul Lane, Esq.  
Southwestern Bell Telephone  
One Bell Central, Room 3536  
St. Louis, Missouri 63101

Office of the Public Counsel  
P. O. Box 7800  
Jefferson City, Missouri 65102

Office of General Counsel  
ATTN: Bill Haas  
P. O. Box 360  
Jefferson City, Missouri 65102



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Attorney for DIECA Communications, Inc.  
d/b/a Covad Communications Company