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## STATE OF MISSOURI PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 3rd day of February, 2000.

In the Matter of the Petition of DIECA	)	
Communications Inc., d/b/a Covad Communications	)	
Company for Arbitration of Interconnection	)	Case No. TO-2000-322
Rates, Terms, Conditions and Related Arrange-	)	
ments with Southwestern Bell Telephone Company.	)	

## ORDER GRANTING MOTION TO MODIFY PROCEDURAL SCHEDULE

On November 9, 1999, DIECA Communications Inc., d/b/a Covad Communications Company (Covad), filed its petition for arbitration with the Commission pursuant to the Telecommunications Act of 1996 (the Act) and Section 386.230 of the Revised Statutes of Missouri<sup>1</sup>. The petition asks the Commission to arbitrate open issues related to Covad's request for an interconnection agreement with Southwestern Bell Telephone Company (SWBT).

On December 22, 1999, a prehearing conference was held in this matter pursuant to the Commission's Order Regarding Arbitration issued on November 29, 1999. Pursuant to the Commission's order, the parties had previously agreed to a procedural schedule that the Commission's Staff filed on December 20, 1999, in a Motion to Establish Procedural Schedule.

<sup>&</sup>lt;sup>1</sup>All references herein to the Revised Statutes of Missouri (RSMo), unless otherwise specified, are to the revision of 1994.

The proposed procedural schedule was reviewed and discussed at the prehearing conference. The Commission adopted an Order Adopting Procedural Schedule on December 27, 1999. The procedural schedule set the hearing dates for February 8-9, 2000, and February 15, 2000, if necessary.

On January 27, 2000, Covad filed a Motion to Modify Procedural Schedule and for Expedited Consideration (of the motion) by facsimile transmission. Covad discussed its request with SWBT and SWBT filed its response, Opposition of Southwestern Bell Telephone Company to Covad's Motion to Modify Procedural Schedule, on January 28, 2000. The Commission's Staff filed a response supporting Covad's motion on January 31, 2000.

Covad's request is based upon two reasons. First, the parties have had discovery disputes regarding data requests that required the Commission's action and the disputes have delayed Covad's access to certain information. Covad has requested a delay of the hearing in order to allow it time to view the information provided by SWBT and incorporate that information into Covad's surrebuttal testimony, which is due on February 3, 2000. And, Covad also desires to delay depositions it had noticed for February 3, 2000 (rescheduled from January 26, 2000) in order to have the information provided in the data requests prior to depositions. The second reason stated in support of modifying the procedural schedule is that one of Covad's attorneys, Ms. Laura Izon, has been ill.

SWBT's response opposing the motion states that the parties mutually agreed to the procedural schedule and that a delay could impact the Commission's ability to resolve the issues presented within the time

frame permitted by the Act. SWBT calculates that the Commission must resolve the issues presented by March 19, 2000.

Given the stringent time constraints imposed by the Act, a modification of the procedural schedule that delays submission of the matter to the Commission would not generally be accepted. However, in this case, the request will change the last day for testimony by one day. Consequently, the Commission may grant Covad's motion.

## IT IS THEREFORE ORDERED:

- 1. That the Motion to Modify Procedural Schedule and for Expedited Consideration [of the Motion] filed on January 27, 2000, is granted.
- 2. The filing date for surrebuttal testimony is modified and changed to February 10, 2000.
- 3. The hearing dates are modified and changed to February 15-16, 2000, beginning at 9:00 AM.
  - 4. That this order shall become effective on February 3, 2000.

BY THE COMMISSION

Hole Hred Roberts

(SEAL)

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

Lumpe, Ch., Crumpton, Drainer, and Schemenauer, CC., concur. Murray, C., dissents.

Thornburg, Regulatory Law Judge