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January 28, 2000

FILED³

JAN 28 2000

Missouri Public
Service Commission

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Floor 5A
Jefferson City, Missouri 65101

Re: Case No. TO-2000-322

Dear Judge Roberts:

Enclosed, for filing in the above-captioned case, are an original and fourteen copies of Opposition of Southwestern Bell Telephone Company to Covad's Motion to Modify Procedural Schedule.

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

Paul G. Lane /tm

Paul G. Lane

Enclosures

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

JAN 28 2000

Missouri Public
Service Commission

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

OPPOSITION OF SOUTHWESTERN BELL TELEPHONE COMPANY TO
COVAD'S MOTION TO MODIFY PROCEDURAL SCHEDULE

COMES NOW Southwestern Bell Telephone Company ("SWBT") and for its
response to the Motion to Modify Procedural Schedule and for Expedited Consideration
filed by DIECA Communications Inc. d/b/a Covad Communications Company ("Covad")
states as follows:

1. In its motion, Covad seeks to modify the procedural schedule which
contemplates hearings on February 8-9, 2000 and, if necessary, on February 15, 2000.
This procedural schedule was the result of negotiations by the parties, and was adopted
by the Commission on December 27, 1999, and SWBT opposes changing the schedule at
this late date. SWBT's witnesses and counsel have arranged their schedules to be present
on the dates established by the Commission, and a change at this point would be
burdensome.

2. Covad seeks a continuance in this case on the basis of the Commission's
order of January 25, 2000, granting Covad's Motion to Compel response to certain data
requests. But the Commission's Order, which was obviously made in recognition of the
procedural schedule, since it required an expedited response on SWBT's part by February

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4, 2000, did not suggest or order any change in the schedule. Nor is any change necessary or appropriate on the basis of the discovery order.

3. Had these data request responses been critical to this case, Covad would presumably have filed its Motion to Compel immediately after SWBT's objections. Although SWBT's objections were presented to Covad on November 22, 1999 Covad did not file its Motion to Compel until December 22, 1999. Thus, had Covad pursued these data request responses on a more expeditious basis, the Commission's order would have already issued and the motion to continue the case would have been unnecessary.

4. Covad also contends that the case should be continued as a result of a prior illness of one of several attorneys on behalf of Covad in this case. Covad's counsel has now apparently returned to work. In any event, Covad has several attorneys representing it in this case including an attorney who tried these same issues in Texas. Covad has not demonstrated that it is unable to proceed in this case.

5. The procedural schedule in this case was established as a result of negotiations between the parties which took all parties' interests into account. SWBT's witnesses have commitments in other proceedings which would be adversely impacted by changing the date in this case. This is particularly true, since Covad apparently will seek to occupy the time of SWBT's witnesses with depositions on the dates on which the hearing is now set if its request for a delay is granted.

6. In its motion, Covad states that SWBT will provide access to any documents in St. Louis. SWBT notes that it has been required to respond to the discovery requests on an expedited basis, and will expend significant resources to meet the Commission's order in this case. The information which will be gathered is largely

our of state, or in St. Louis, and must be gathered and reviewed before it is provided. If highly confidential information is involved, SWBT will make the information available at its offices as contemplated by the protective order in this case. It is standard practice to make the information available in St. Louis¹ and, in this case, it is necessary to provide the information in St. Louis, since that is where any responsive documents are located or will be sent for review under the expedited response date set by the Commission.

7. The Telecommunications Act requires the decision to be made within 270 days from the initiation of negotiations, which SWBT calculates to be March 19, 2000. Any delay may impact the Commission's ability to resolve the issues within the time frame of the Act.

8. Covad requests that it be given the opportunity to file surrebuttal testimony based on the data requests responses, but does not provide SWBT with an opportunity to respond. Such a proposal is decidedly unfair, as SWBT would be unable to present its position on new claims injected by Covad. If the Commission does modify the procedural schedule, in fairness it cannot deprive SWBT of an opportunity to respond to Covad and should permit SWBT to respond to Covad's position based on documents reviewed or depositions taken.

WHEREFORE, for all the foregoing reasons, SWBT respectfully requests the Commission to deny Covad's Motion to Modify the Procedural Schedule in this case and to retain the current schedule.

¹ When time permits, SWBT has produced highly confidential documents at other SWBT offices for the convenience of counsel. In this case, SWBT made available highly confidential documents at its offices in Kansas City for the convenience of counsel.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served to all parties on the Service List by Facsimile and by Airborne Express on January 28, 2000.

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