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January 14, 2000

FILED<sup>3</sup>

JAN 14 2000

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

Missouri Public  
Service Commission

Re: Case No. TO-2000-322

Dear Judge Roberts:

Enclosed, for filing in the above-captioned case, are an original and fourteen copies of Response of Southwestern Bell Telephone Company to Request for Depositions.

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

FILED<sup>3</sup>  
JAN 14 2000

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

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

**RESPONSE OF SOUTHWESTERN BELL TELEPHONE  
COMPANY TO REQUEST FOR DEPOSITIONS**

COMES NOW Southwestern Bell Telephone Company ("SWBT") and for its response to the Request for Depositions filed by DIECA Communications, Inc., d/b/a Covad Communications Company ("Covad") states as follows:

1. Covad's Request for Depositions in this case is inappropriate and should not be granted. SWBT has provided Covad with over 9,000 pages of documents in response to Covad's requests, and has made all of the cost studies at issue here available for review in Kansas City (at Covad's request and for the convenience of its counsel) on three separate occasions. Covad has initiated an arbitration in Texas involving similar issues and will have participated in a Kansas arbitration including similar issues prior to the hearing in this case. Moreover, of the five issues presented to the Commission in this arbitration, four involve pricing issues which have already been determined by this Commission in prior arbitrations with Broadspan, Sprint and/or AT&T, and SWBT has offered to Covad the prices determined by this Commission in those arbitrations. Covad

is well aware of SWBT's positions from the myriad of documents and testimony filed in this and other cases, and there is no need to conduct depositions here.

2. The Commission's arbitration procedures, adopted on June 17, 1996, do not provide for discovery. The Commission has determined that discovery in arbitrations is to be determined on a case-by-case basis, and has previously determined that discovery will not be allowed as the prefled testimony provides sufficient information for each party to understand the other party's position. Order Addressing Motion to Establish Procedural Schedule and Adopt Protective Order, Case No. TO-97-40, August 9, 1996, at p. 3. The Commission has not authorized depositions in any of the six arbitrations involving SWBT which this Commission has conducted pursuant to the Telecommunications Act of 1996, and should not do so here.

3. Contrary to Covad's assertion, SWBT has not agreed to produce witnesses for depositions in the Kansas arbitration, but is complying with a decision by the arbitrator in Kansas. Given the substantial volume of materials produced to Covad in this case, the extensive prefled direct testimony outlining SWBT's position, and Covad's familiarity with SWBT's positions from prior arbitrations, it is wholly unnecessary to authorize depositions in this proceeding.

WHEREFORE, for all the foregoing reasons, SWBT requests the Commission to deny Covad's request for depositions in this case.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By Paul G. Lane /tm

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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 Airborne Express on January 14, 2000.

Paul G. Lane /tm  
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