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February 1, 2000

VIA HAND DELIVERY

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

FILED²

FEB 1 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 Position statement of DIECA Communications, Inc. d/b/a Covad Communications Company. There is a confidential version and a public version. The original and fourteen (14) copies of the public version of the position statement and eight copies of the confidential version will be forwarded by Federal Express for delivery on February 2, 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

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

FILED²

FEB 1 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

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**Position Statement of DIECA Communications, Inc.
D/B/A Covad Communications Company**

**CONFIDENTIAL INFORMATION
HAS BEEN REDACTED**

Loop Qualification Charge

The Commission should reject Southwestern Bell Telephone Company's ("SWBT's") proposed nonrecurring charge for "partially mechanized" loop qualification because that charge reflects the costs for an interim, short-run process and improperly includes costs for SWBT's engineers to perform an unnecessary and duplicative analysis of the loop makeup data that SWBT and Covad have already agreed should not be performed.¹ SWBT will not be contractually required to inform Covad of the location, type or number of bridge taps, load coils or repeaters. Accordingly, SWBT should not charge Covad for the performance of these tasks. Instead, the Commission should require SWBT to provide Covad with mechanized access to loop makeup data for no charge (which reflects the long-run cost of an efficient, fully mechanized system).

It is Covad's position that the TELRIC methodology requires long-run cost estimates, and the best estimate of the forward-looking cost of providing loop makeup information in the long run is \$0. If the Commission, however, allows SWBT to recover costs for manual qualification until a fully mechanized system is in place, it should include only the efficient cost of a drafting clerk gathering the relevant data instead of the cost for activities that would have been performed by SWBT's engineer, thereby reducing the cost of loop qualification from SWBT's proposed \$15.00 to **Begin Confidential End Confidential**

Covad agrees with the Missouri Staff that once SWBT makes the required updates to mechanize its loop qualification process, SWBT's or the Staff's proposed loop qualification charges would be even more inappropriate. Consequently, Covad supports Staff's suggestion that any non-zero loop qualification charge set by this Commission should be a temporary, transitory charge.

Conditioning Charges:

SWBT's line "conditioning" nonrecurring costs are fundamentally inconsistent with TELRIC principles because they do not reflect an efficient, forward-looking network architecture, in which the recurring cost of a loop would already reflect the functionality of "conditioning" that loop to provide DSL-based services. Given that the recurring charge for unbundled DSL-capable loops already includes the cost of providing loops that are free of load coils and other DSL inhibitors, permitting an additional nonrecurring charge for line "conditioning" is inconsistent with TELRIC.

At a minimum, SWBT should not be allowed to discriminate against Covad by charging for the removal of repeaters or load coils. SWBT has confirmed that it does not consider

¹ Section 5.4 of DSL Appendix already agreed upon by the parties states that SWBT's loop makeup data will include "(a) actual loop length; (b) the length by gauge; and (c) the *presence* of repeaters, load coils, or bridged taps; and shall include, if noted on the individual loop record, (d) the total length of bridged taps, load coils and repeaters; (e) the presence of pair-gain devices, DLC, and/or DAML, and (f) the presence of disturbers in the same and/or adjacent binder groups." (emphasis added).

any nonrecurring cost associated with removing (1) ISDN or T-1 repeaters to restore basic exchange service or (2) load coils to condition a line for ISDN service. SWBT recovers these costs through recurring charges and should be prohibited from charging competitors, such as Covad, on a discriminatory nonrecurring basis.

If a non-recurring rate is appropriate at all, SWBT proposed rates are overstated. SWBT's cost studies include excessive work times and SWBT inappropriately charges for the restoral of bridge taps. Additionally, SWBT's cost study assumes an inefficient, discriminatory and harmful conditioning practice for competitors by conditioning only one line at a time, rather than multiple lines in a binder group. Evidence from Texas establishes that SWBT typically conditions 50 lines at a time when it engages in "preconditioning" for its own digital services, and Mr. Donovan's testimony establishes that the multiple splice re-entry implicitly assumed in SWBT's conditioning cost study would lead to service degradation problems over time.

Finally, if the Commission does find that a non-recurring rate is appropriate for conditioning, Covad supports the Missouri Public Service Commission Staff's recommendation to limit the number of loops for which SWBT may charge Covad for loop conditioning to 4% in light of SWBT's admission that only 3% to 5% of the loops in its network between 12,000 and 17,500 feet would require conditioning in order for Covad's xDSL services to be deployed.

ISDN Loop Rates

SWBT's ISDN loop rates are unreasonably high. The Commission should reject SWBT's proposed recurring charge for ISDN-type loops because the underlying cost does not reflect efficient, forward-looking prices and technology for related electronic equipment. SWBT's ISDN costs are flawed and inflated because they are based on costs for obsolete, inefficient technology. Covad and the residents of Missouri should not have to pay for SWBT's inefficiency.

Instead of allowing SWBT to overcharge for ISDN loops and inhibiting competitive ISDN deployment, the Commission should derive a reasonable proxy for a TELRIC-based price for ISDN-type loops in Missouri based upon comparable rates in other jurisdictions. Covad suggests that Pacific Bell, which has a relatively high cost ratio for ISDN versus analog loops (38%), be used as the proxy, which would result in interim pricing as follows: \$17.54 in Zone 1, \$28.58 in Zone 2, \$45.94 in Zone 3 and \$25.16 in Zone 4. This proxy cost should remain in effect until SWBT provides a properly documented cost study for two-wire digital loops and all affected parties have an opportunity to review and comment on those costs.

Cross Connect Rates

SWBT has *still* failed to provide Covad with cost documentation supporting its proposed cross-connection non-recurring prices. SWBT has, therefore, precluded Covad from

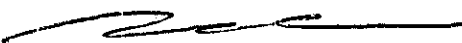
effectively challenging its proposed price. Covad acknowledges Staff's representation that the proposed rates for shielded cross-connects are, appropriately, comparable to the Missouri-adopted rates for non-shielded cross-connects. Nonetheless, Covad has not had an opportunity to challenge the cost basis for these prices. Therefore, the Commission should only adopt interim cross-connect nonrecurring charges in this arbitration. The Commission should direct SWBT to provide Covad with the relevant cost data for both shielded and non-shielded cross-connects and provide Covad with an opportunity to review those data and, if it chooses, to challenge the interim prices established in this arbitration.

Unilateral Substantive Modifications to SWBT's Technical Publications

The Commission should rule that SWBT cannot make **substantive** changes to its technical publications that will bind Covad and allow SWBT the right to unilaterally change the interconnection agreement between the parties and their corresponding rights and obligations. Covad has no objection to SWBT making procedural modifications to its technical publications and requests only that the Commission rule that a term be included in the General Terms and Conditions that states:

Modifications to SWBT Technical Publications that attempt to modify substantive rights under this interconnection agreement will have no effect on the parties' respective rights and obligations under this agreement.

Respectfully submitted,



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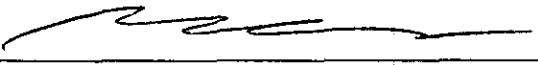
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was forwarded, via Federal Express, this 1st day of February, 2000, to:

Paul G. Lane, Esq.
Southwestern Bell Telephone
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St. Louis, Missouri 63101

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