

FILED³

JAN 28 2000

Missouri Public
Service Commission

BEFORE THE 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

REBUTTAL TESTIMONY OF BERNARD CHAO

1 **I. INTRODUCTION**

2 **Q. Please state your name and your position.**

3 A. My name is Bernard Chao. I am the Vice President of Legal Strategy at Covad
4 Communications Company.

5 **Q. Have you provided testimony earlier in this proceeding?**

6 A. Yes, my direct testimony was provided with Covad's initial set of testimony.

7 **Q. What is the purpose of your reply testimony?**

8 A. My testimony responds to the direct testimony of John Lube on the topic of technical
9 publications.

10 **Q. Mr. Lube testifies that SWBT needs technical publications to manage its network.**
11 **What is your response to that concern?**

12 A. Covad is not trying to manage SWBT network. SWBT can make all the procedural
13 changes that it desires.

14 **Q. Do you expect to challenge modifications to SWBT's technical publications?**

15 A. No, to date, I am only aware of one set of technical publications that Covad has
16 challenged. In most cases, SWBT simply makes procedural changes that are not controversial.

17 **Q. At p. 24 of his testimony, Mr. Lube stated that he was unaware of any complaints**
18 **about technical publications. Are you aware of complaints?**

19 A. Yes, I am very surprised at Mr. Lube's comments. He is obviously not paid attention to
20 the controversy SWBT's technical publications caused in Texas. Both Covad and Rhythms
21 complained about SWBT's DSL technical publications. Eventually, the arbitrators in Texas
22 issued an order forbidding SWBT to use its DSL technical publications prior to Commission
23 approval. The specific text states:

24 SWBT's Technical Publications must be approved by the Commission prior to
25 use, and its Technical Publications regarding xDSL services have not yet been
26 approved. (Arbitrators Decision at p. 39, footnote omitted)

27 The technical publications in question covered the critical SUBSTANTIVE issues of
28 what DSL technologies can be provisioned in specific areas in the network and which DSL

1 technologies received preferential treatment.

2 **Q. Why does Mr. Lube testify that the parties have no dispute over DSL**
3 **technical publications?**

4 A. Mr. Lube is correct. SWBT has not required Covad to abide by unilaterally
5 issued technical publications in the DSL portion of the interconnection agreement.
6 However, there are references to technical publications in other sections of the
7 agreement. Covad is afraid that SWBT will make substantive anticompetitive changes in
8 those documents.

9 **Q. SWBT complains that Covad will not define the term "substantive". What is**
10 **your response to that complaint?**

11 A. The term "substantive" is well understood. The problem is that SWBT trying to
12 force Covad to provide a complete list of what constitutes a "substantive" change. Covad
13 cannot do that any more than SWBT could list every type of "procedural" change it may
14 wish to make.

15 **Q. Does this conclude your testimony?**

16 A. Yes.
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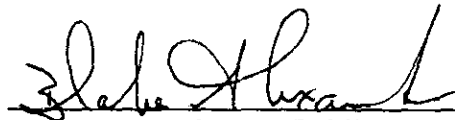
VERIFICATION

STATE OF *California*)
) SS:
COUNTY OF: *Santa Clara*)

Comes now Bernard Chao, being of lawful age and duly sworn, who states that he is the witness who has provided the foregoing testimony, that he has prepared and read the foregoing testimony, and that the information contained therein is true and accurate to the best of his knowledge and belief.


Bernard Chao

Subscribed and sworn to before me on this 24 day of January, 2000.


Notary Public

My Commission Expires:

