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November 17, 2004

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PUBLIC SERVICE
COMMISSION

Elizabeth O' Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40601

Re: *Petition Of Dieca Communications, Inc. d/b/a Covad Communications Company For Arbitration Of Interconnection Agreement Amendment With Bellsouth Telecommunications Inc. Pursuant To Section 252(B) Of The Telecommunications Act Of 1996 Case No. 2004-00259 – Status Report*

Dear Ms. O'Donnell:

By Order dated October 18, 2004 the Commission required the parties to file a status report concerning Covad's arbitration petition. This letter is Covad's report.

First, as the Commission is aware, Covad has filed a motion for reconsideration, asking that the Commission reconsider its legal conclusion and find that linesharing is a §271 checklist item 4 requirement applicable to BellSouth. Meanwhile, Covad is continuing its efforts to reach a region wide settlement with BellSouth concerning remaining open issues. Settlement talks have not reached a conclusion. Alternatively, Covad has made clear to BellSouth that it is interested in a market-based commercial agreement for the continued provision of linesharing. Covad has reached such agreements with other BOCs. BellSouth has not been responsive to Covad's request.

Regarding the pending motion for reconsideration, Covad wishes to advise the Commission that one additional state commission has recently considered the impact of the recent FCC forbearance order discussed in Covad's motion. In its November 10, 2004 Executive session, the Louisiana Public Service Commission heard then adopted a motion from Commissioner Field:

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Commissioner Field

I understand BellSouth has requested oral argument in this case. But, in light of recent developments, I do not believe argument is necessary and I would like to make a motion on this matter.

Motion:

I move we adopt the ALJ's Final Recommendation, which finds that BellSouth has a continuing obligation to provide line sharing under Section 271 unless BellSouth's Petition for Forbearance is granted as to line-sharing, with the following amendment:

On October 27, 2004, the Federal Communications Commission issued an order granting BellSouth's Petition for Forbearance in WC Docket 04-48. Based upon conflicting statements issued by FCC Chairman Michael Powell and FCC Commissioner Kevin Martin regarding the intent and scope of that order, there is disagreement as to whether BellSouth is relieved from the obligation to provide line sharing under Section 271. Because of this issue, the Commission will hold this proceeding in abeyance until the FCC provides clarification as to BellSouth's continuing obligation to provide line-sharing. Upon clarification by the FCC, the Parties will true-up the rates for line sharing, if necessary, retroactive to the effective date of the Triennial Review Order. If the FCC does not clarify this issue within three months from the issuance of this Commission's order, the Commission will review this matter again at the request of either party.

Covad would not object to such an order should the Commission rule in favor of Covad's motion for reconsideration.

Please indicate receipt of this filing by placing your file-stamp on the extra copy and returning to me in the enclosed, self-addressed, stamped envelope.

Sincerely,



Douglas F. Brent
Counsel for Covad Communications Company

cc: service list

DFB;jms



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FROM	STOLL, KEENON & PARK, LLP ATTORNEYS AT LAW 2650 AEGON CENTER • 400 WEST MARKET STREET LOUISVILLE, KENTUCKY 40202-3377
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