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July 29, 2003

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VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket No.: 020960-TP

Dear Ms. Bayo:

On behalf of DIECA Communications, Inc. d/b/a Covad Communications Company (Covad), enclosed for filing and distribution are the original and 15 copies of the following:

- ◆ Covad Communications' Motion to Strike.

Please acknowledge receipt of the above on the extra copy and return the stamped copy to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

VGK/bae
Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Arbitration of open issues
resulting from interconnection negotiations with
Verizon Florida, Inc. by DIECA Communications,
Inc. d/b/a Covad Communications Company.

Docket No.: 020960-TP
Filed: July 29, 2003

COVAD COMMUNICATIONS' MOTION TO STRIKE

DIECA Communications, Inc., d/b/a Covad Communications Company (Covad), pursuant to rule 25-106.303, Florida Administrative Code, files this Motion to Strike the letter from counsel for Verizon Florida, Inc. (Verizon) dated July 18, 2003 ("Verizon's unsolicited comments") from the record in this case. Verizon's unsolicited comments regarding the Arbitration Order of the New York Public Service Commission should be stricken from the record because they are an unauthorized pleading under the Commission's rules and are an inappropriate effort to re-brief the issues in this docket. Alternatively, if the Commission accepts Verizon's comments, Covad requests that the Commission permit Covad to file its analysis of the New York Commission's Order.

This docket involves an arbitration proceeding between Covad and Verizon. The matter went to hearing (based on the paper record) on May 14, 2003. The Parties filed their briefs on June 16, 2003. Thereafter, on July 21, 2003, without seeking any authorization from the Commission, Verizon filed a letter¹ with the Commission in which it commented extensively on the Arbitration Order of the New York Commission.²

Verizon's comments contained a predictable set of positions -- if the New York Commission decided an issue in Verizon's favor, Verizon touted the decision, but if the

¹ Though filed in letter format, this filing is still an unauthorized pleading.

² On July 15, 2003, Covad filed a copy of the New York Order with the Commission with no commentary.

New York Commission's decision was adverse to Verizon, Verizon attempted to explain why it was inappropriate. Nonetheless, Verizon's filing is unauthorized by the Commission's rules and is a patently inappropriate attempt to re-brief the issues in this case after closure of the record.

The record of the New York proceedings was filed in this docket before the Parties filed their post-hearing briefs. Verizon had the opportunity at that time to comment on the legal differences between New York and Florida. Indeed, Verizon repeatedly cited to its post-hearing brief in its unsolicited comments – a clear indication that Verizon *did* cite to such differences. Nevertheless, Verizon “seeks to elaborate on the relevance of the New York PSC’s rulings on the issues”, or more accurately, Verizon *does* selectively re-brief the issues the New York Commission decided against Verizon. Verizon’s “elaboration” is nothing more than an additional brief of the legal issues, complete with argument, efforts to distinguish contrary authority, and citation to pleadings, FCC precedent and case law.

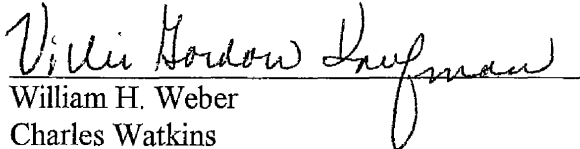
Such a "second brief" is not permitted pursuant to the Commission rules and therefore must be stricken.³ In the alternative, if the Commission does not strike Verizon's unauthorized pleading, due process requires that Covad have the opportunity to present its analysis of the New York Order.

WHEREFORE, Covad requests that the Commission strike Verizon's July 18, 2003 unauthorized letter from the record of this docket, or alternatively, grant Covad leave to file comments on the New York Order.

³ It would create dangerous precedent to allow Parties to unilaterally re-brief issues whenever another state commission rules on similar issues.

COVAD COMMUNICATIONS COMPANY

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Attorneys for DIECA Communications, Inc.
d/b/a Covad Communications Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing DIECA Communications, Inc. d/b/a Covad Communications Company's Motion to Strike has been provided by (*) hand delivery, (**) electronic mail or U.S. Mail this 29th day of July 2003, to the following:

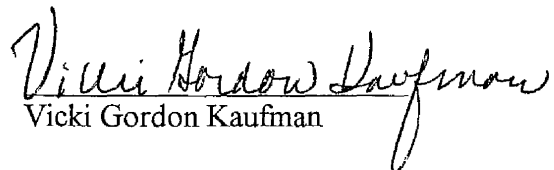
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