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December 15, 2003

VIA HAND DELIVERY

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

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COMMISSION
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Re: Docket No.: 030851-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:

- ▶ DIECA Communications, Inc., d/b/a Covad Communications Company's General Objections to First Set of Interrogatories (Nos. 8 -11) and Second Request for Production of Documents (No. 9).

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

Sincerely,

Vicki Gordon Kaufman

Vicki Gordon Kaufman

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MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, KAUFMAN & ARNOLD, P.A.

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising)
from Federal Communications Commission) Docket No. 030851-TP
triennial UNE review: Local Circuit Switching)
for Mass Market Customers.) Filed: December 15, 2003
_____)

DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS
COMPANY'S GENERAL OBJECTIONS TO STAFF'S
SECOND SET OF INTERROGATORIES (NOS. 8 - 11) AND
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NO. 9)

DIECA Communications, Inc., d/b/a Covad Communications Company (Covad), pursuant to Rules 1.280, 1.340, 1.350, Florida Rules of Civil Procedure, and Rule 28.106-206, Florida Administrative Code, hereby files the following General Objections Staff's Second Set of Interrogatories (8 - 11) and First Request for Production of Documents (No. 9) to Covad.

GENERAL OBJECTIONS

1. Covad objects to the interrogatories and requests for production to the extent they seek to impose an obligation on Covad to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such interrogatories and requests for production are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

2. Covad objects to the interrogatories and requests for production to the extent they are intended to apply to matters other than those subject to the jurisdiction of the Commission. Covad objects to such interrogatories and requests for production as being irrelevant, overly broad, unduly burdensome, and oppressive.

3. Covad objects to each and every interrogatory and request for production and instruction to the extent that such request or instruction calls for information that is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable

privilege.

4. Covad objects to each and every interrogatory and request for production insofar as the interrogatories and requests are vague, ambiguous, overly broad, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these interrogatories and requests for production. Any answers provided by Covad in response to the interrogatories and requests for production will be provided subject to, and without waiver, of the foregoing objection.

5. Covad objects to each and every interrogatory and request for production insofar as it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. Covad will attempt to note in its responses each instance where this objection applies.

6. Covad objects to providing information to the extent that such information is already in the public record before the Commission or in Staff's possession.

7. Covad objects to Staff's discovery requests, instructions and definitions, insofar as they seek to impose obligations on Covad that exceed the requirements of the Florida Rules of Civil Procedure and Florida Law.

8. Covad objects to each and every interrogatory and request for production, insofar as any of them are unduly burdensome, expensive, oppressive, or excessively time consuming as written.

9. Covad is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, Covad creates countless documents that are not subject to Commission or FCC retention of records requirements. These documents are kept in numerous locations that are frequently moved from site to site as employees change

jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests. Covad will conduct a search of those files that are reasonably expected to contain the requested information. To the extent that the requests purport to require more, Covad objects on the grounds that compliance would impose an undue burden or expense.

10. Covad objects to each and every interrogatory and request for production to the extent that the information requested constitutes “trade secrets” pursuant to Section 90.506, Florida Statutes. To the extent that Staff requests proprietary confidential business information, Covad will make such information available in accordance with a protective agreement, subject to other general or specific objections contained herein.

11. Covad objects to any discovery request that seeks to obtain “all” or particular documents, items, or information to the extent that such requests are overly broad and unduly burdensome. Any answers provided by Covad in response to this discovery will be provided subject to, and without waiver of, the foregoing objection.

SPECIFIC OBJECTIONS

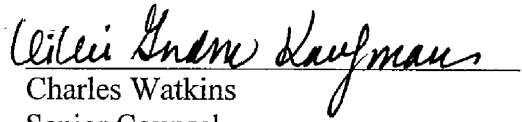
12. Covad specifically objects to Interrogatory Nos. 8-11 and Production Request No. 9 as irrelevant because they seek information about Covad switches. Covad's “switches” are ATM switches and should not be considered in the mass market switching docket. Because Covad does not provide voice services over its ATM switches and because ATM switches are not circuit switches, discovery related to Covad’s ATM switches serving only xDSL customers is irrelevant to both the “triggers” and “potential deployment” analyses in this docket. The Federal Communications Commission (“FCC”) states in its Triennial Review Order (“TRO”) that “[f]or purposes of the examination described here, mass market customers are *analog voice customers*

...” TRO ¶ 497 (emphasis added). In the “triggers” analysis, the FCC repeatedly states that the switches to be considered are *only* those “*actively providing voice service* used to serve the mass market.” TRO ¶ 499 (emphasis added); see also, ¶ 498 (“triggers identify *existing* examples of multiple competitive LECs using their own switches to serve mass market [*analog voice*] customers . . .”) (emphasis added); ¶ 499 (“the identified competitive switch providers should be *actively providing voice service* to mass market customers . . .”) (emphasis added); ¶ 500 (“we find that states shall not evaluate any other factors The key consideration to be examined by state commissions is whether the providers are *currently* offering and able to provide [*analog voice*] service . . .”) (emphasis added).

Similarly, in the “potential deployment” analysis, the FCC states that “States should first examine whether competitors are already using their own switches *to serve voice customers . . .*” and whether there “are two wholesale providers or three self-provisioners of switching *servicing the voice enterprise market . . .*” TRO ¶ 508 (emphasis added); see also ¶ 507. Covad does not provide a single voice service – to mass markets or enterprise markets – over its ATM switches. While ATM switches may have the potential to support certain kinds of voice over internet protocol (VoIP) services, such nascent technologies are not currently available to serve mass markets. Indeed, BellSouth’s potential deployment business model does not assert that VoIP is capable of serving a mass market.

Additionally, the FCC’s consideration of circuit switches is wholly separate from the FCC’s analysis of ATM switching. Indeed, the FCC’s holdings regarding these two kinds of switches are diametrically opposed: circuit switches serving the mass *voice* market are unbundled while ATM switches serving the mass *data* market are not. Compare ¶¶ 459-485 with ¶¶ 535-541 (noting that ATM switches are ubiquitous and “are much cheaper to deploy than

circuit switches.” ¶ 538). Clearly then, ATM switches and circuit switches are not interchangeable. As such, the discovery served on Covad seeking information about Covad’s ATM switches is not reasonably calculated to lead to admissible evidence and is, consequently, irrelevant.


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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 General Objections to Staff's Second Set of Interrogatories (Nos. 8-11) and Second Request for Production of Documents (No. 9) has been provided by (*) hand delivery, (**) email and U.S. Mail this 15th day of December 2003, to the following:

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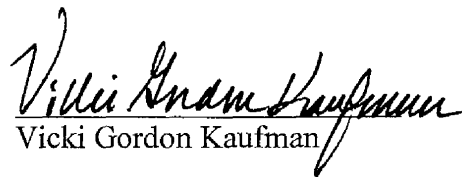
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