

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by DIECA Communications, Inc. d/b/a Covad Communications Company for arbitration of issue resulting from interconnection negotiations with BellSouth Telecommunications, Inc., and request for expedited processing.

DOCKET NO. 040601-TP
ORDER NO. PSC-04-0833-PCO-TP
ISSUED: August 26, 2004

ORDER APPROVING JOINT PROPOSAL ON PROCEDURE

On June 23, 2004, DIECA Communications, Inc. d/b/a Covad Communications Company (Covad) filed its Petition for Arbitration and Request for Expedited Processing of an issue resulting from interconnection negotiations with BellSouth Telecommunications, Inc. (BellSouth). Covad is requesting Commission resolution of the parties' dispute regarding line sharing rates, terms and conditions. On July 19, 2004, BellSouth filed its Response to Covad's Arbitration Petition in which they raised additional issues and requested this proceeding be treated as a change of law dispute rather than an arbitration.

On July 23, 2004, Covad filed a Motion for Extension of Time to respond to BellSouth's Response. On July 27, 2004, BellSouth filed its Motion for Summary Disposition and Expedited Relief. By Order No. PSC-04-0747-PCO-TP, issued August 4, 2004, Covad's Motion was granted. Covad filed its Response to BellSouth's Response and Motion for Summary Disposition on August 2, 2004.

Joint Proposal on Procedure

On August 12, 2004, the parties filed a Joint Proposal letter stating the parties had met and discussed the issues raised in this docket. The parties stated that they had resolved Issue Nos. 2, 3, 6, 7, and 8 in their entirety and that discussions concerning Issue Nos. 4, 5, 9, and 10 continue. Additionally, the parties proposed a procedural schedule which they believe will facilitate the conduct and resolution of this matter in an administratively efficient manner.

The parties propose that each will file legal briefs by September 3, 2004, addressing the following issue:

- 1) Is BellSouth obligated to provide Covad access to line sharing after October 2004?

The parties have agreed, pending our decision on this legal issue, that all other issues and outstanding motions should be held in abeyance. Furthermore, the parties stated they do not intend to include jurisdictional arguments which both parties have addressed and will

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continue to address in connection with BellSouth's Emergency Petition for Declaratory Ruling and Preemption of State Action, WC Docket No. 04-245, before the Federal Communications Commission. The parties state that upon the issuance of a decision on the legal issue, the parties will convene and discuss whether further proceedings are necessary, and if necessary, the nature of such proceedings and the issues to be addressed.

Decision

Although not referenced in the Joint Proposal, in order to address the legal issue the parties have identified, they request we conduct this proceeding pursuant to Section 120.57(2), Florida Statutes. Upon consideration, I find it reasonable and appropriate to approve the parties' Joint Proposal in its entirety. Therefore, parties shall file their briefs on September 3, 2004, which shall be limited to twenty (20) pages excluding attachments. Furthermore, all outstanding issues and motions shall be held in abeyance pending resolution of the legal issue set forth by the parties in their Joint Proposal.

Based upon the foregoing, it is

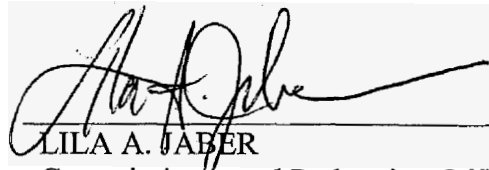
ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that DIECA Communications, Inc. d/b/a Covad Communications Company and BellSouth Telecommunications, Inc.'s Joint Proposal is approved in its entirety.

ORDERED that briefs shall be filed by September 3, 2004, which shall be limited to twenty (20) pages excluding attachments.

ORDERED that all outstanding issues and motions shall be held in abeyance pending resolution of the legal issue set forth by the parties in their Joint Proposal.

ORDER NO. PSC-04-0833-PCO-TP
DOCKET NO. 040601-TP
PAGE 3

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 26th day of August, 2004.



LILA A. JABER
Commissioner and Prehearing Officer

(SEAL)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.