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Subject: E-filing - Docket 041269-TP
Attachments: Motion for Extension of Time 04.20.06.pdf

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Docket Nos. and titles: Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law
 Filed on behalf of: DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad")
 Number of pages: 8
 Document attached: Expedited Motion for Extension of Time to File Amended Agreement

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In Re: |) | |
| |) | |
| Petition to Establish Generic Docket to |) | Docket No. 041269-TP |
| Consider Amendments to Interconnection |) | |
| Agreements Resulting from Changes of Law |) | Filed: April 20, 2006 |
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EXPEDITED MOTION FOR EXTENSION OF TIME TO FILE AMENDED AGREEMENT

DIECA Communications, Inc. d/b/a Covad Communications Company (Covad), pursuant to rule 28-106.303, Florida Administrative Code, moves the Commission for an order granting Covad an extension of time in which to comply with Order No. PSC-06-0299-FOF-TP (Second Generic Order), issued April 17, 2006, due to the currently pending federal court proceedings relating to that order. Covad requests that it be given an extension of ten (10) days from the federal court's ruling on Covad's pending Motion for Preliminary Injunction to comply with the Second Generic Order, if compliance is required. Further, Covad requests that, due to the short time allowed for compliance with the Second Generic Order, this motion be considered on an expedited basis. As grounds therefore, Covad states:

1. On November 1, 2004, BellSouth filed a petition with the Commission for the establishment of a generic docket seeking to require CLECs to amend their interconnection agreements (ICAs) consistent with the changes in law resulting from activity at the federal level. A hearing was held before a three (3) person panel, consisting of Chairman Edgar and Commissioners Deason and Arriaga on November 2-3, 2005.

2. On February 7, 2006, the Commission voted on its Staff recommendation as to the issues in this case. Among other things, the Commission voted to allow BellSouth to cease accepting new orders for line sharing.

3. The Commission acted on its Staff's written recommendation via voice vote. It directed the parties to submit signed amendments or agreements conforming to its decision within twenty (20) days of the Commission's vote. On February 15, 2006, Covad filed a Complaint for Declaratory Relief and Motion for Preliminary Injunction in federal court as to the Commission's line sharing determination.

4. On February 28, 2006, prior to the entry of a written order setting out its February 7th decision, the Commission voted to vacate its decision on the line sharing issues (as well as other issues). The Commission took this action because a Commission employee, with responsibility for substantive portions of the recommendation, had engaged in prohibited ex parte communications.

5. On March 23, 2006, Staff filed a new recommendation in which it recommended, among other things, that BellSouth had no obligation to provide line sharing.

6. At its April 4, 2006 Agenda Conference, the Commission panel considered and approved Staff's recommendation. The Commission directed that amended ICAs be filed within ten (10) days of the issuance of the written order.

7. On April 10, 2006, Covad filed an Amended Complaint, a Motion for Preliminary Injunction, and a Request for Expedited Hearing in federal court.

8. On April 11, 2006, the Court entered an order requiring responses to Covad's Motion for Preliminary Injunction to be filed by April 19, 2006, and stating that a decision as to whether to conduct a hearing on the preliminary injunction request would be made after review of the responses. The Court also stated that if a hearing was held it would most likely occur on May 4, 2006. Attachment 1.

9. On April 17, 2006, the Commission issued its Second Generic Order, which requires amended ICAs to be “fully executed and submitted to this Commission within 10 days of the Commission’s order in this proceeding.” Second Generic Order at 36. Thus, currently an amended ICA between Covad and BellSouth would be due on April 27, 2006.

10. However, as explained above, Covad currently has pending in federal court a Motion for Preliminary Injunction, which, if granted, would stay the effectiveness of the Second Generic Order as to line sharing. Covad should not be put in the untenable position of having to comply with a Commission order that may be enjoined by the Court. In order to ensure the orderly consideration of the issues before the Court, and for purposes of expediency and economy of resources, Covad requests an extension of time to comply with the Second Generic Order, if required, of ten (10) days from the Court’s ruling on Covad’s Motion for Preliminary Injunction.

11. Counsel for Covad is authorized to represent that the Staff has no position on the request and that BellSouth does not consent to Covad’s request.

WHEREFORE, Covad requests that it be granted an extension of time to comply with the Commission’s Second Generic Order, if required, of ten (10) days from the Court’s ruling on Covad’s pending Motion for Preliminary Injunction and that this motion be considered and disposed of on an expedited basis.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Expedited Motion for Extension of Time to File Amended Agreement was served via electronic mail and U.S. mail this 20th day of April, 2006, to the following:

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s/Vicki Gordon Kaufman
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**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

DIECA COMMUNICATIONS, INC., etc.,

Plaintiff,

v.

CASE NO. 4:06cv72-RH/WCS

FLORIDA PUBLIC SERVICE
COMMISSION et al.,

Defendants.

ORDER SETTING PRELIMINARY INJUNCTION SCHEDULE

Upon consideration of the parties' stipulation (document 29) regarding the schedule for briefing on plaintiff's motion for preliminary injunction (document 26),

IT IS ORDERED:

1. The deadline for responses to plaintiff's motion for preliminary injunction (document 26) is set as April 19, 2006.
2. A decision whether to conduct a hearing on the motion will be made after review of the responses. Any hearing will be set by separate notice and most

ATTACHMENT 1

likely will occur (if at all) on Thursday, May 4, 2006, at 10:00 a.m.

SO ORDERED this 11th day of April, 2006.

s/Robert L. Hinkle
Chief United States District Judge