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BEFORE THE ARIZONA CORPORATION COMMISSION

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2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
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7 KRISTIN K. MAYES

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AZ CORP COMMISSION
DOCUMENT CONTROL

6 IN THE MATTER OF THE PETITION OF DIECA
7 COMMUNICATIONS, INC., dba COVAD
8 COMMUNICATIONS COMPANY FOR
9 ARBITRATION OF AN INTERCONNECTION
10 AGREEMENT WITH QWEST CORPORATION.

DOCKET NO. T-03632A-04-0425
DOCKET NO. T-01051B-04-0425

PROCEDURAL ORDER

9 **BY THE COMMISSION:**

10 On June 8, 2004, DIECA Communications, Inc., dba Covad Communications Company
11 ("Covad") filed with the Arizona Corporation Commission ("Commission") a Petition for Arbitration
12 of a proposed interconnection agreement with Qwest Corporation ("Qwest") pursuant to A.A.C. R14-
13 2-1505 and Section 252(b) of the Communications Act of 1934, as amended by the
14 Telecommunications Act of 1996 ("the Act").

15 Hearings were conducted in this proceeding on February 7 and 18, 2005, and briefs were filed
16 in March, 2005. The matter is currently pending the issuance of a Recommended Order by the
17 Arbitrator.

18 On August 5, 2005, the Federal Communications Commission ("FCC") issued a News
19 Release regarding a proposed Report and Order (FCC 05-150) that, among other things, would
20 eliminate facilities sharing requirements on facilities-based wireline broadband Internet access
21 service providers. The full text of the FCC's Decision was released on September 23, 2005.

22 By Procedural Order issued August 12, 2005, Covad, Qwest and the Commission's Utilities
23 Division Staff ("Staff") were directed to file, by August 26, 2005, statements regarding the impact of
24 the FCC's Decision, if any, on this proceeding.

25 On August 26, 2005, Staff filed a Request for Extension to File Comments on the FCC
26 Decision. Staff states that it will need three weeks from the date the FCC's Order is issued to
27 complete its review and provide comments in this docket.

28 On August 26, 2005, Covad filed a Statement indicating its belief that the FCC's Decision

1 will have no impact on any of the issues in this docket. Covad claims that the FCC's Decision does
2 not impact Qwest's obligation to provision certain network elements, including loops and dedicated
3 transport, under Section 271 of the Act.

4 Qwest also filed on August 26, 2005, a Statement Regarding the FCC's Decision. According
5 to Qwest, the FCC's Decision potentially affects this proceeding profoundly because the Decision
6 "appears to change the very regulatory category of the respective services provided by Qwest and
7 Covad, raising jurisdiction questions" (Qwest Statement, at 2). Qwest states that because the FCC's
8 August 5, 2005 News Release does not provide the details of the FCC's ruling, it is premature to
9 speculate regarding the impact the Decision will have on this docket.

10 By Procedural Order issued August 30, 2005, Staff's request for an extension of time was
11 granted.

12 On November 3, 2005, Staff filed a Request for Procedural Order stating that an FCC
13 Decision in CC Docket No. 02-33 was issued on September 23, 2005. Staff requested that a
14 Procedural Order be issued allowing Staff, Covad, and Qwest an opportunity to file comments
15 regarding the impact of the FCC's Order on the issues raised in this proceeding.

16 IT IS THEREFORE ORDERED that Staff, Covad, and Qwest shall file comments regarding
17 the impact of the FCC's Order in CC Docket No. 02-33 on the issues raised in this proceeding, by no
18 later than November 21, 2005.

19 IT IS FURTHER ORDERED that the Arbitrator may rescind, alter, amend or waive any
20 portion of this Procedural Order by subsequent Procedural Order.

21 Dated this 7th day of November, 2005

22
23 

24 DWIGHT D. NODES
25 ARBITRATOR

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28 ...

Copies of the foregoing mailed/delivered
this 7 day of November, 2005 to:

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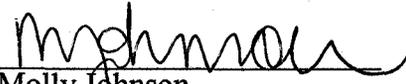
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