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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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- WILLIAM A. MUNDELL
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- MIKE GLEASON
- KRISTIN K. MAYES

AZ CORP COMMISSION  
DOCUMENT CONTROL

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

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

PROCEDURAL ORDER

**BY THE COMMISSION:**

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

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

On August 5, 2005, the Federal Communications Commission ("FCC") issued a News Release regarding a proposed Report and Order (FCC 05-150) that, among other things, would eliminate facilities sharing requirements on facilities-based wireline broadband Internet access service providers. The full text of the FCC's Decision has not yet been issued.

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

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

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. Therefore, Qwest proposes that  
10 the Arbitrator should convene a Procedural Conference in this matter.

11 IT IS THEREFORE ORDERED that Staff's request for an extension of time to file a  
12 Statement regarding the impact of the FCC's Decision is granted.

13 IT IS FURTHER ORDERED that a Procedural Conference shall be scheduled once the FCC's  
14 written Report and Order is issued.

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

17 Dated this 30<sup>th</sup> day of August, 2005

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20 \_\_\_\_\_  
21 DWIGHT D. NODES  
22 ARBITRATOR

23 Copies of the foregoing mailed/delivered  
24 this 30<sup>th</sup> day of August, 2005 to:

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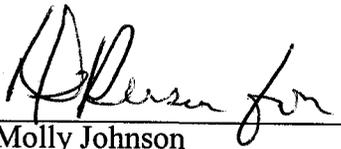
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