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2006 FEB 22 1 A 11: 09

AZ CORP COMMISSION
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**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
T-01051B-04-0425**

**QWEST CORPORATION'S MOTION
TO MODIFY THE TIME FOR THE
PARTIES TO SUBMIT A FINAL
INTERCONNECTION AGREEMENT**

Qwest Corporation ("Qwest") submits this motion to modify the time for Qwest and Covad Communications Company ("Covad") to submit a final interconnection agreement in this matter.

The ordering provisions of the Commission's arbitration Order issued February 2, 2006, direct the parties to submit a signed interconnection agreement "to the Commission for its review within 30 days of the effective date of this Decision." Order at 40. At the same time, the Order establishes that the arbitration will continue until rates are set for network elements provided under Section 271: "A further phase of this proceeding shall be instituted within 30 days to determine just and reasonable rates consistent with state and federal law." Order at 23. Because there will not be a final interconnection agreement that includes all rates, terms, and conditions until the conclusion of this "further phase," it would be logical and appropriate for the Commission to modify the Order to establish that the parties will submit a final agreement after

1 the conclusion of this rate proceeding.¹

2 The rates for network elements are among the most critical terms of any interconnection
3 agreement. Thus, the Act specifically mandates that in exercising their authority to review
4 interconnection agreements under Section 252(e), state commissions must review the rates in an
5 agreement to ensure that they meet the pricing requirements in the Act. *See* 47 U.S.C.
6 § 252(e)(2)(B). Here, if the parties submit an agreement to the Commission before completion
7 of the pricing proceeding, the agreement will either not include a complete list of rates or will list
8 rates that soon will change. Under either scenario, the Commission would not be able to exercise
9 its Section 252 review authority in the manner intended by the Act.

10 It also would be inefficient for the parties to submit an interconnection agreement before the
11 conclusion of the rate proceeding. Under that approach, the parties would have to submit an
12 agreement twice for the Commission's review – once prior to the start of the rate proceeding and
13 again after the conclusion of that proceeding when final rates are set. The more efficient
14 approach for the parties and the Commission is for the parties to wait until the conclusion of the
15 rate proceeding to submit a final agreement containing all, not just some, final rates, terms, and
16 conditions.

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23 ¹ Qwest strongly disagrees with the Commission's determination that it has authority to set prices
24 for Section 271 elements. As discussed in Qwest's application for rehearing filed simultaneously
25 with this motion, state commissions do not have any decision-making or pricing authority under
26 Section 271. Because there is no jurisdictional basis for the pricing proceeding the Commission
has ordered, Qwest's application for rehearing requests that the Commission vacate the portion of
its Order requiring that proceeding.

1 **CERTIFICATE OF SERVICE**

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3 I hereby certify that I have served a copy of **QWEST CORPORATION'S MOTION**
4 **TO MODIFY THE TIME FOR THE PARTIES TO SUBMIT A FINAL**
5 **INTERCONNECTION AGREEMENT** on February 22, 2006, to the following parties via
6 **electronic and overnight mail:**

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8 Senior Counsel
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