



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu](http://www.nj.gov/bpu)**

**TELECOMMUNICATIONS**

IN THE MATTER OF THE VERIFIED PETITION OF )  
DIECA COMMUNICATIONS, INC., D/B/A COVAD )  
COMMUNICATIONS COMPANY FOR APPROVAL TO )  
PARTICIPATE IN CERTAIN FINANCING )  
ARRANGEMENTS )

ORDER OF APPROVAL

DOCKET NO. TM08030168

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

On March 19, 2008, DIECA Communications, Inc. d/b/a Covad Communications ("Covad" or the "Petitioner") filed a petition with the Board of Public Utilities ("Board") requesting approval to participate in certain financing arrangements whereby Covad Communications Group, Inc. ("CCGI"), the direct parent of Covad, would incur long-term debt obligations consisting of a senior secured first lien term loan facility of up to \$172,500,000 (the "Senior Term Facility"), a senior secured first lien revolving credit facility in an aggregate principal amount of up to \$25,000,000 (the "Senior Revolving Facility" and, together with the Senior Term Facility, the "Senior First Lien Facilities"), and a senior secured second lien term loan facility of up to \$87,500,000 (the "Senior Second Lien Facility"); and to encumber its property through the grant of a security interest in Covad's assets in support of the financing arrangements.

Covad is a Virginia corporation, with offices located at 110 Rio Robles, San Jose, California. Its parent, CCGI, is a Delaware corporation company located at the same address. Covad is a nationwide provider of integrated voice and data communications. It offers DSL, Voice Over IP, T1, Web hosting, managed security, IP and dial-up, wireless broadband, and bundled voice and data services directly through its network and through Internet Service Providers, value-added resellers, telecommunications carriers and affinity groups to small and medium-sized businesses and home users. Covad broadband services are currently available across the nation in 44 states and 235 Metropolitan Statistical Areas and can be purchased by more than 57 million homes and businesses, which represent over 50 percent of all US homes and businesses. In New Jersey, Covad is authorized to provide intrastate telecommunications

services.<sup>1</sup> Covad is also authorized by the Federal Communications Commission to provide both interstate and international telecommunications services.

At the time the petition was filed, a merger was pending pursuant to which CCGI was to become a wholly-owned subsidiary of CCGI Holding, an affiliate of Platinum Equity, LLC. That merger was approved by the Board earlier this year.<sup>2</sup> The parties consummated that transaction on April 15, 2008, and a notice of consummation was filed with the Board on or about April 23, 2008.

The proposed financing arrangements will be used to replenish funds used as consideration for the merger and also provide funds for other purposes, including providing working capital, financing capital expenditures, refinancing existing indebtedness, and other general corporate purposes.

The borrower in the financing arrangements is CCGI. Covad, the regulated entity, will guaranty certain of the borrowings and provide security for that guaranty by granting a security interest in its assets.

At the time the petition was filed, the financing arrangements were expected to consist of three measures:

- 1) A senior secured first lien term loan facility in an aggregate principal amount to be determined based on market conditions, currently expected to be between \$148,500,000 and \$172,500,000 (the "Term Facility").
- 2) A senior secured first lien revolving credit facility in an aggregate principal amount to be determined based on market conditions, currently expected to be between \$20,000,000 and \$25,000,000 (the "Revolving Facility" and, together with the Term Facility, the "Senior First Lien Facilities"), of which an amount to be determined will be available through a sub-facility in the form of letters of credit.
- 3) A senior secured second lien term loan facility (the "Senior Second Lien Facility") in an aggregate principal amount to be determined based on market conditions, currently expected to be between \$76,500,000 and \$87,500,000.

The Senior First Lien Facilities and Senior Second Lien Facility had an initial maturity on the date that is 364 days after the closing of the merger, provided that upon receipt of requisite regulatory approvals the maturity date will be extended to a date which is expected to be on or after the fifth anniversary of the Closing Date for the Senior First Lien Facilities, and the sixth anniversary of the Closing Date for the Senior Second Lien Facility.

Subsequently, the principal of the Term Facility was reduced to \$100,000,000, the Revolving Facility was set at \$20,000,000, and the principal of the second term note was set at \$176,600,000. In connection with these revisions, it was determined that Covad would not need to guaranty or provide security for the second term note.

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<sup>1</sup> See Order, Docket No. TE98060350 (November 4, 1998).

<sup>2</sup> See Order, Docket No. TM07120966 (March 4, 2008).

Covad states that the proposed financing arrangements described herein are consistent with the public interest and will not impair the ability of Covad to perform services to the public. The financing arrangements will enable CCGI Holding to capitalize its acquisition of Covad, thereby allowing Covad to secure the benefits attendant to that acquisition, including operational efficiencies, management expertise, and the ability to bring services to new markets and allow more consumers to benefit from its competitive services more quickly and efficiently. In addition, the financing arrangements will allow CCGI and Covad to extend the maturity of certain indebtedness and reduce existing expenses. Furthermore, the contemplated pledges and guarantees will be entirely transparent to consumers and will not alter the rates, terms and conditions under which Covad provides service in New Jersey. The issuance of the notes will not cause a change in the control of CCGI or Covad.

Covad further states that approval of Covad's participation in the proposed financing arrangements will serve the public interest in promoting competition among telecommunications carriers by providing CCGI (and therefore Covad) with the opportunity to strengthen its financial position. Covad believes that the financial arrangements described herein provide important financial benefits to the company. As a result, the proposed transaction is expected to continue to yield financial benefits that ultimately inure to the benefit of Covad's customers. Furthermore, by increasing the breadth and scope of telecommunications services made available through Covad's ongoing operations, this financing transaction will ultimately benefit New Jersey consumers. In sum, greater access to capital will strengthen Covad's ability to bring competitive telecommunications services to consumers in New Jersey and is, therefore, claims Covad, in the public interest.

The Division of Rate Counsel has reviewed this matter, and by letter dated June 11, 2008, recommended that the Board approve this petition.

### FINDINGS AND CONCLUSIONS

After a thorough review of the petition and all related documents, and the recommendation of Board staff, the Board FINDS that the purposes of this financing are necessary, reasonable and proper; that the proposed borrowing is in accordance with law and is in the public interest; and that the purposes thereof should be approved.

The Board, after being satisfied with the actions as proposed by Covad as indicated above, and approving the purposes thereof, HEREBY ORDERS that Covad be and is HEREBY AUTHORIZED to participate in the financing transaction as hereinabove described.

This Order is subject to the following provisions:

- 1 This Board's approval is expressly limited to the financing described herein and as more fully described in the Petition and supporting documents.
2. This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of the tangible or intangible assets now owned or hereafter to be owned by Covad.

In the Matter of the DIECA Communications, Inc.  
d/b/a Covad Communications Company, for Approval to  
Participate in Certain Financing  
BPU Docket No. TF08030168

SERVICE LIST

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3. This Order shall not affect nor in any way limit the exercise of the authority of this Board, or of the State of New Jersey, in any future petition or in any proceedings with respect to rates, franchises, services, financing (including the method of sale of securities), accounting, capitalization, depreciation or in any other matters affecting Covad.

DATED: 7/14/08

BOARD OF PUBLIC UTILITIES  
BY:



JEANNE M FOX  
PRESIDENT

  
FREDRICK F. BUTLER  
COMMISSIONER  
JOSEPH L. FIORDALISO  
COMMISSIONER  
NICHOLAS ASSELTA  
COMMISSIONER  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities

