

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: ) DOCKET NO. 050863-TP  
)  
dPi Teleconnect, L.L.C. v. )  
BellSouth Telecommunications, Inc. )

ORIGINAL

DIRECT TESTIMONY OF STEVE WATSON ON BEHALF OF dPi TELECONNECT

**Please tell us who you are and give a little background about yourself.**

My name is Steve Watson. I operate a CLEC consulting/billing agent company called Lost Key Telecom Inc. We are a billing agent for dPi Teleconnect; we handle their promotion credit billing, along with that of numerous other CLECs in the Bellsouth areas. We have managed dPi's account since July of 2004. I am the one who worked on dPi's account and interacted on dPi's behalf with Bellsouth on the promotions that are the subject of this dispute, especially the dispute relating to the Line Connection Charge Waiver promotion.

**Please give us a little background on what you do and what this case is about generally.**

Well, as you probably know, this dispute relates to dPi's resale operations, in which dPi buys Bellsouth's retail services at a wholesale discount and resells those services to its own customers. Under the law, any promotion that Bellsouth makes available to its customers for an extended period of time, it must allow dPi to also purchase. Otherwise, the whole system of competition based on wholesale/resale would be undercut, because Bellsouth could offer pricing to its retail customers below the "wholesale" price it extends to its competitors.

This dispute involves certain promotional credits which BellSouth failed to credit dPi.

**Please tell us about the process for claiming credits.**

To understand the dispute, one must understand its origins – namely, BellSouth’s “promotion process” which, at the time relevant to this case, operated in practice if not by design to enrich BellSouth as the expense of its small competitors.

At the times relevant to this complaint, BellSouth was unable to bill resellers the correct amount (including promotional discounts) for the services they ordered when the order was submitted. By comparison, SBC’s systems allow one to apply for a promotional credit as a part of the provisioning order, and reject the order if it does not qualify for the promotion. The credit is applied to the price immediately and the discount reflected on the same bill; the CLEC pays no more than what it actually owes for the service from the beginning.

In contrast, the practical effect of BellSouth’s “inability” or refusal to bill these charges correctly on the front end means that BellSouth automatically overcharges every reseller for every service the reseller orders that is subject to a promotional discount. Then BellSouth shifts the burden on to the reseller to (1) figure out how much BellSouth has overcharged the reseller, and (2) dispute BellSouth’s bills accordingly. If a CLEC is not aware that this is how the system is supposed to work and does not know to apply for these promotions, BellSouth retains their money.

For those CLECs who generally understand that they must apply for these credits, BellSouth’s system makes it as difficult as possible for the reseller to dispute the bills to BellSouth’s satisfaction. First, the credit request must be meticulously documented, listing details of every order for which credit is requested. But getting the data to populate these forms is a Herculean task in itself: it must come from BellSouth’s billing and ordering data, which BellSouth has traditionally provided to resellers only on either a paper bill, or electronically in a “DAB” file, which has data locks built into it, making downloading of the raw data exceptionally difficult. To make matters

worse, in dPi's experience next to no one at BellSouth can explain how to get the data out of the "DAB" files, because BellSouth does not maintain its own data in such files, and its employees simply are not equipped with the knowledge to answer questions about how to unlock its secrets. Figuring out how, as a practical matter, to apply for these credits takes a large amount of resources in time and money. Some CLECs appear to have simply thrown their hands in the air and given up.

Next, if a CLEC spends the time and resources to figure out a way to get at their data, and create systems for electronically scouring it to identify those orders that ought to qualify for promotional credits, and write and re-write programs that will populate BellSouth's forms (which it changes from time to time as it sees fit), BellSouth will examine the requests for credit to see if it will honor them. There is no deadline for BellSouth to act on these credit requests. When it finally approves or denies credits – which can take months – it makes no explanation for what credits it accepts, and what credits it rejects, and why. If the credit is rejected, the CLEC has no way of auditing the rejection to see if it is merited or not. If the credit is accepted, BellSouth has kept the CLEC's money for months, without interest, before returning it.

The system is backwards, failure prone, and grossly inefficient. And at every step of the way, whether consciously designed to that end or not, the system works to enrich BellSouth at the CLEC's expense.

My business is hired to apply for credits from BellSouth. As dPi's agent in this process, we review the data Bellsouth provides dPi regarding the services Bellsouth has sold dPi, and calculate which promotions dPi is entitled to under the promotions then in effect. We then submit requests for promotional credits on dPi's behalf, and Bellsouth evaluates or audits those requests and issues or denies credit as it sees fit.

It was a long process applying for these credits. When I first got involved in trying to claim credits on behalf of CLECs, back in 2003, Bellsouth's "promotional credit processing department" appeared to consist of one person: Stanley Messinger; he was later replaced by Christy Siegel, who was in turn superseded by Keith Deason in the second half of 2005. These were the people tasked with helping CLECs navigate the promotional credit filing process – that is, verifying what promotions CLECs were in fact eligible for, and how to apply and secure those credits. I don't know how this "department" fit into Bellsouth's organizational structure, but they were not part of Bellsouth's billing and collections department, nor were they part of Bellsouth's wholesale operations. It was obvious when I first started calling that they simply didn't get hardly any promotional credit requests, nor any questions about how to qualify and apply for such credits. Frequently they did not know the answers to questions on these subjects, and sometimes a decision by one person would be reversed by his or her successor. Oftentimes, it seems that policies were made on the spot, on an *ad hoc* basis. In essence, we were feeling our way through "the system" together, and I relied on what they told me about what was creditable and how to apply for those credits.

At any given time, Bellsouth has a number of promotions going at once. We apply for all those that are available to dPi, and manage any disputes over promotion payments/credits with Bellsouth. In dPi's case, it has disputes with Bellsouth on a number of promotional credits. In North Carolina, nearly 99% of the money involved was tied to a single dispute about dPi's eligibility for a single kind of promotion: the Line Connection Charge Waiver. We are not sure if that is the case here in Florida because we do not have discovery response back yet, but my testimony will mainly focus on that one promotion.

**Tell us about that.**

For the past few years, Bellsouth has put out a promotion that it calls the Line Connection Charge Waiver. Generally, it provides that Bellsouth will waive the line connection charge for customers who switch to Bellsouth and take at least basic service and two Touchstar features.

In August 2004, we began submitting credit requests for dPi pursuant to Bellsouth's procedures, as well as for other clients. Our computer program automatically scours the orders electronically reported by Bellsouth for our clients, and tallies those that contained new service plus two or more Touchstar features. A request for credit was made pursuant to those tallies.

For some of our clients, Bellsouth paid essentially 100% of credit applied for. For example, Budget Phone, who has a claim roughly double the size of dPi's, was paid in full. Previously, Bellsouth had similarly paid Teleconnex in full for these promotions. These entities' product mix to their end users was also essentially very similar to dPi's. However, Bellsouth credited dPi only about a small fraction of the amounts applied for.

From September 2004 to April 2005, Bellsouth was unable to explain why it was refusing to pay these credits. On numerous occasions over this period, Bellsouth's Christy Siegel and/or other employees promised that these payments would be forthcoming. However, in about April of 2005, Bellsouth stated that it would not be paying these credits applied for almost entirely on the grounds that dPi had not qualified for the credits because, notwithstanding the fact that dPi had purchased Bellsouth's basic service with two or more Touchstar features, the Touchstar features that dPi had included in its orders (e.g., BCR and BRD blocks) "did not count" because Bellsouth did not levy a separate charge for these particular Touchstar features. In North Carolina, the overwhelming majority of the time a credit request was denied, it was denied because Bellsouth decided that dPi

did not have the requisite number of Touchstar features. We are not sure if that is the case in Florida because we do not have discovery responses back yet, but we assume that is the basis for rejection.

**Is there any merit to Bellsouth's position?**

Essentially none. The fact of the matter is that all that is required to qualify for these promotion is the purchase of basic service with two (or sometimes one, if you use the promotion description from Bellsouth's website) Touchstar features. In every case where Bellsouth denied credit on the grounds that dPi did not qualify because it had not purchased Bellsouth's basic service with two features, dPi *had* in fact taken Bellsouth's basic service with at least two additional Touchstar features, such as the BCR and BRD blocks, among others. Bellsouth simply chooses not to "count" these features. There is no dispute that the blocks ordered are listed by Bellsouth as Touchstar features. Bellsouth has paid credits to other carriers with the same service orders (i.e., basic service plus Touchstar blocks) in the past. Now Bellsouth is simply fabricating an excuse to avoid having to pay these credits to dPi.

**Does Bellsouth owe dPi any amounts for wrongfully denying promotion credits for this reason?**

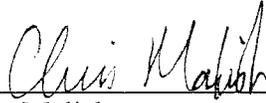
Yes indeed. BellSouth has wrongly denied crediting tens of thousands of dollars just on the line connection charge waiver alone. We are not sure of the exact number because we do not have discovery responses back yet. There is also thousands of dollars in Secondary Service Charge Waiver credits and Two Features For Free credits which were improperly denied.

**Does this conclude your testimony?**

For now. But I reserve the right to supplement or amend it at hearing.

Respectfully Submitted,

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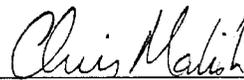
Attorneys for dPi Teleconnect, L.L.C.

**CERTIFICATE OF SERVICE**

The undersigned attorney for dPi Teleconnect, L.L.C. certifies that on this day the foregoing testimony was served upon the parties of record by overnight mail, postage prepaid, on the 23<sup>rd</sup> day of July, 2007

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