

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

**MOTION FOR ADDITIONAL DISCOVERY**

1. dPi Teleconnect, L.L.C. (“dPi”) moves the Florida Public Service Commission (“Commission”) to permit additional discovery to develop evidence that further contradicts AT&T’s prior testimony.

**Factual Background and Argument**

2. AT&T testified (but did not provide documentation) that AT&T did not provide the Line Connection Charge Waiver promotion to its end users that ordered basic service plus two Touchstar Blocking Features.

3. To test this assertion, dPi requested on July 20, 2007, that AT&T identify what it *had* charged customers taking just basic service plus two Touchstar Blocking Features:

Please identify any and all occurrences, on a month to month basis beginning January, 2002, of an end user ordering from BellSouth basic service plus any two of the three following features: the call return block (bearing in North Carolina the Universal Service Ordering Code [“USOC”] of “BCR”); the repeat dialing block (“BRD”); and the call tracing block, and “HBG” block. Please indicate what these customers were charged when implementing these services, including any and all recurring charges, non-recurring charges, and promotional charges.

4. AT&T resisted providing the information, but was ultimately compelled by this Commission to provide documentation responsive to this discovery request. This documentation was provided in two parts: the first on September 26, 2007, and the second

on November 9, 2007.<sup>1</sup> This documentation produced after the deadline contradicts AT&T's earlier testimony; AT&T *has* in fact repeatedly and systematically provided Line Connection Charge waivers to its end users taking only basic service plus two Touchstar Blocking Features – between 14 and 30% of the time from 2003 to 2007.

5. Confronted with this discrepancy, AT&T raised the argument in December 2007 that just because someone with basic service and Touchstar Blocking Features had their Line Connection Charge waived does not mean they were given the Line Connection Charge Waiver promotion, and that there are better explanations, *e.g.*, the order was the split of an existing account or it was a new account altogether.<sup>2</sup>
6. Accordingly, on December 21, 2007, dPi served additional discovery requests on AT&T that test AT&T's new contentions that these Line Connection Charge waivers were waived pursuant to some other promotion. Copies of dPi's requests are attached as Exhibit A. AT&T refuses to answer, claiming the discovery cut-off shields it from further disclosures.
7. This case is not currently set for hearing.
8. The new discovery is necessary to help determine whether AT&T was waiving the Line Connection Charge for customers with basic service plus two Touchstar Blocking Features pursuant to the Line Connection Charge Waiver or some other promotion. The need for the particular requests could not have been anticipated until after (1) AT&T produced its

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Though dPi made the requests well in advance of the September 24, 2007, discovery deadline, AT&T's original and supplemental responses were not made until after the deadline.

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On December 17, 2007, AT&T made this argument for the first time in its *Opposition to Motion for Reconsideration* filed with the North Carolina Public Utilities Commission.

Line Connection Charge waiver data and (2) articulated its explanations as to why the data shows it had been extending the waiver to retail orders configured like dPi's – both of which came after the discovery cut-off.

### **PRAYER**

9. The documentation provided by AT&T so far indicates that despite its earlier testimony to the contrary, AT&T has repeatedly and systematically waived the line connection charge for its retail customers taking just basic service and TouchStar Blocking Features and nothing else. AT&T has now represented that these waivers were given for reasons other than the Line Connection Charge Waiver promotion. The additional discovery requested tests these contentions on this critical subject and could not have been earlier anticipated, since they were triggered by materials produced and positions taken, by AT&T after the discovery deadline. Allowing the extra discovery would not unduly delay the case, since it is not currently set for hearing. dPi prays the Commission allows additional discovery.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the above instrument was transmitted to Counsel for Defendants at the below address via electronic mail and first class mail on January 11, 2008.

/s/ Chris Malish \_\_\_\_\_  
Chris Malish

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## **EXHIBIT A: REQUESTS FOR PRODUCTION**

**EXHIBIT A**  
**dPi TELECONNECT, LLC'S THIRD SET OF RFIs**

Please provide the following information or materials:

- 3-1. On a month by month basis since January 2003, please indicate what percentage of AT&T's new orders in Florida were either win-backs or reacquisitions.
- 3-2. On a month by month basis since January 2003, please indicate what percentage of AT&T's new orders in Florida resulted from the split of an existing account.
- 3-3. On a month by month basis since January 2003, please indicate what percentage of AT&T's new orders in Florida were the re-establishment of service after a disconnection in error.
- 3-4. On a month by month basis since January 2003, please indicate what percentage of AT&T's new orders in Florida were the re-establishment of service after disconnect by incident of force majeure.
- 3-5. On a month by month basis since January 2003, please indicate what percentage of AT&T's new orders in Florida were the re-establishment of service following a disconnect for non-pay.