

Office of Commission Clerk Official Filing

Ruth Nettles

From: Jennifer L. Washington [jwashington@fostermalish.com]
Sent: Wednesday, January 23, 2008 4:21 PM
To: Filings@psc.state.fl.us
Cc: pc0755@att.com; mg2708@att.com; Lee Eng Tan; Frank Trueblood; Chris Malish; Steven Tepera
Subject: Docket No. 050863-TP - In Re: dPi Teleconnect, LLC v. BellSouth Telecommunications, Inc. - Motion to Modify Procedural Schedule/Move Hearing Date

Attachments: Motion to Modify Procedural Schedule.Move Hearing Date.pdf



Motion to
lily Procedural 5

A. Jennifer L. Washington, CP
Paralegal
Foster Malish Blair & Cowan, LLP
1403 West Sixth Street
Austin, TX 78703
(512) 476-8591
(512) 477-8657/fax
jennifer@fostermalish.com

B. dPi Teleconnect, LLC v. BellSouth Telecommunications, Inc. - Docket No. 050863-TP C.
dPi Teleconnect, LLC D. 9 pages including certificate of service, Exhibits 1 and 2 E.
Motion to Modify Procedural Schedule/Move Hearing Date

Jennifer L. Washington, CP
Paralegal
Foster Malish & Cowan, LLP
1403 West Sixth Street
Austin, Texas 78703
(512) 476-8591/phone
(512) 477-8657/fax
jennifer@fostermalish.com

This electronic communication (including any attached document may contain privileged and/or confidential information. This information is intended only for the use of indicated e-mail addressees. If you are not an intended recipient of this communication, please be advised that any disclosure, dissemination, distribution, copying, or other use of this communication or any attached document is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply e-mail and promptly destroy all electronic and printed copies of this communication and any attached documents.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

MOTION to MODIFY PROCEDURAL SCHEDULE/ MOVE HEARING DATE

dPi Teleconnect, L.L.C. ("dPi") moves the Florida Public Service Commission ("Commission") to reschedule the March 12, 2008, hearing date in this case by either advancing or delaying the date of the hearing, as dPi's counsel and at least one witness have conflicts with the existing hearing date.

Factual Background and Argument

1. On January 14, 2008, dPi filed a motion to allow it to conduct additional discovery in this case. One of the representations dPi made in that motion was that this case had not yet been re-set for hearing. It made that representation because it was unaware that the case HAD been re-set for hearing. Only today, after reading AT&T's response, has dPi realized that in fact this case was reset on November 30, 2007, for March 12, 2008. (dPi's counsel went back and found the Commission's order caught in an email spam filter.)
2. The current March 12, 2008, setting conflicts with prior settings currently set for dPi and Bellsouth in Louisiana (March 11) and Texas (March 12). The Louisiana hearing is a hearing on the merits of a companion case to this one, and involves the same witnesses from both BellSouth and dPi. The Texas court case is factually unrelated to the promotion cases, but will require testimony from the same witness from dPi, Brian Bolinger. Copies of the orders making those settings are attached as Exhibits 1 and 2.

3. In addition, the current setting date falls within the middle of counsel for dPi's child's spring break, and counsel's better half has planned and expects counsel for dPi to take them on a ski trip during the second half of that week, and the undersigned is now sweating bullets.
4. dPi thus respectfully requests that the hearing date be moved, either to a slightly earlier date – any time in the week of March 3, 2008; or to a later date – March 20 or after.
5. Counsel for dPi has conferred with opposing counsel to see if this motion will be opposed, but counsel for AT&T does not yet have position on this issue. However, counsel for dPi will alert the Commission to AT&T's position as soon as it becomes known. In the meantime, dPi prefers not to delay bringing its request to the attention of the Commission.

PRAYER

6. Because of pre-existing hearing conflicts (including a hearing on the merits in a companion case) and vacations, dPi respectfully requests that the hearing currently set for this case on March 12, 2008, be moved either to the week of March 3, 2008, or to March 20, 2008, or later.

Respectfully Submitted,

FOSTER MALISH BLAIR & COWAN, LLP

/s/ Chris Malish
Chris Malish
Texas Bar No. 00791164
cmalish@fostermalish.com
Steven Tepera
Texas Bar No. 24053510
stepera@fostermalish.com
1403 West Sixth Street
Austin, Texas 78703

Phone: (512) 476-8591
Fax: (512) 477-8657

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 23, 2008.

/s/ Chris Malish

Chris Malish

cc: J. Phillip Carver, Sr. Attorney
AT&T Southeast
675 West Peachtree Street, Suite 4300
Atlanta, Georgia 30375

Via First-Class Mail
Via Electronic Mail: pc0755@att.com

Manuel A. Gurdian, Attorney
AT&T Florida
150 South Monroe Street, Room 400
Tallahassee, Florida 32301

Via First-Class Mail
Via Electronic Mail: mg2708@att.com

Lee Eng Tan, Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Via First-Class Mail
Via Electronic Mail: ltan@psc.state.fl.us

dPi
E & I

LOUISIANA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE HEARINGS DIVISION

RECEIVED
OCT 31 2007
BY:

DOCKET NO. U-29172

DPI TELECONNECT, LLC
VERSUS
BELL SOUTH TELECOMMUNICATIONS, INC.

In re: Dispute over Interpretation of the Parties' Interconnection Agreement.

NOTICE OF MODIFICATION OF PROCEDURAL SCHEDULE

On October 26, 2007 BellSouth Telecommunications, Inc. d/b/a AT&T Louisiana ("AT&T Louisiana") and dPi Teleconnect, LLC ("dPi") filed a Joint Motion to Continue and Reset Prehearing and Hearing Dates. The motion requested that the procedural schedule established at the July 25, 2007 status conference be modified to allow the parties additional time for discovery. In the motion AT&T Louisiana and dPi detailed the requested modifications to the procedural schedule. The motion informs that Commission Staff does not object to the motion.

PLEASE TAKE NOTICE that previously established procedural schedule is modified as follows:

*AW Abrams
+ Spreadsheet*

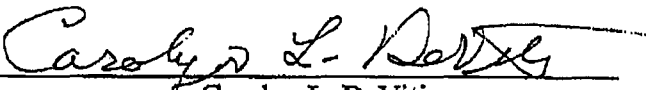
- ✓ Friday, October 26, 2007 Discovery reopens
- ✓ Friday, February 1, 2008 Direct Testimony by all Parties
- ✓ Friday, February 15, 2008 Rebuttal Testimony by all Parties
- ✓ Friday, February 29, 2008 Pre-Hearing Statements
- ✓ Tuesday, March 11, 2008 **Hearing.** The hearing will commence at 9:30 a.m. on Tuesday, March 11, 2008 in the 11th Floor Hearing Room, Galvez Building, 602 North Street (Corner of North and North Fifth Streets), Baton Rouge, Louisiana.

DOCUMENT NUMBER - DATE
00590 JAN 23 08
FPSC-COMMISSION CLERK

If you are disabled and need special accommodation at the hearing, please notify the Administrative Hearings Division at (225) 219-9417 or (800) 256-2397, at least five (5) days

prior to the hearing date. A public parking lot is located on North Street, across from the Galvez Building.

Baton Rouge, Louisiana, this 29th day of October, 2007.


Carolyn L. DeVitis
Administrative Law Judge

cc: Official Service List

*Administrative Hearings Division
11th Floor, Galvez Building
602 North Fifth Street
Post Office Box 91154
Baton Rouge, Louisiana 70821-9154
Telephone (225) 219-9417
Fax (225) 342-5611*

Service List
Docket No.: U-29172

All Commissioners
Brandon Frey - LPSC Supervising Attorney

CPA- Christopher Malish, Foster Malish Blair & Cowan, LLP, 1403 West Sixth Street, Austin TX 78703 P: (512) 476-8591 F: (512) 477-8657 email: chrismalish@fosermalish.com

R- Victoria K. McHenry, Carmen S. Ditta, 365 Canal Street, Suite 3060, New Orleans, LA 70130 P: (504) 528-2050 F: (504) 528-2948 email: Victoria.mchenry@bellsouth.com on behalf of BellSouth

I- Paul F. Guarisco, Phelps Dunbar LLP, City Plaza, 445 North Boulevard, Suite 701, Baton Rouge LA 70802 P: (225) 346-0285 F: (225) 381-9197 paul.Guarisco@pelps.com on behalf of NewPhone

Cause No. cc-07-11432 - c

Hunter Warfield

Plaintiff

vs.

DPI Teleconnect LLC
Defendant

IN THE COUNTY COURT

AT LAW NO. 3

DALLAS COUNTY, TEXAS

UNIFORM SCHEDULING ORDER (LEVEL 1 OR 2)

In accordance with Rules 166, 190 and 192 of the Texas Rules of Civil Procedure, the Court makes the following order to control discovery and the schedule of this cause.

1. This case will be ready and is set for trial on March 12, 2008 (the "Initial Trial Setting"). Reset or continuance of the Initial Trial Setting will not alter any deadlines established in this Order or established by the Texas Rules of Civil Procedure, unless otherwise provided by order.

2. Unless otherwise ordered, discovery in this case will be controlled by:

Rule 190.2 (Level 1)

Rule 190.3 (Level 2)

of the Texas Rules of Civil Procedure. Except by agreement of the party, leave of the court, or where expressly authorized by the Texas Rules of Civil Procedure, no party may obtain discovery of information subject to disclosure under Rule 194 by any other form of discovery.

3. Any objection or motion to exclude or limit expert testimony due to qualification of the expert or reliability of the opinions must be filed no later than seven (7) days after the close of the Discovery Period, or such objection is waived. Any motion to compel responses to discovery (other than relating to factual matters arising after the end of the Discovery Period) must be filed no later than seven (7) days after the close of the discovery period or such complaint is waived, except

DOCUMENT NUMBER DATE

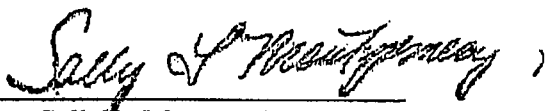
00590 JAN 23 08

FPSC-COMMISSION CLERK

for the sanction of exclusion under Rule 193.6

4. Any amended pleadings asserting new causes of action or affirmative defenses must be filed no later than thirty (30) days before the end of the discovery period and any other amended pleadings must be filed no later than seven (7) days after the end of the discovery period. Amended pleadings responsive to timely filed pleadings under this schedule may be filed after the deadline for amended pleadings if filed within two (2) weeks after the pleading to which they respond.
5. No additional parties may be joined more than six (6) months after the commencement of this case except on motion for leave showing good cause. This paragraph does not otherwise alter the requirements of Rule 38. The party joining an additional party shall serve a copy of this Order on the new party concurrently with the pleading joining that party.
6. Twenty-one (21) days before the Initial Trial Setting, the parties shall exchange a list of exhibits, including any demonstrative aids and affidavits, and shall exchange copies of any exhibits not previously produced in discovery; overdesignation is strongly discouraged and may be sanctioned. Except for records to be offered by way of business record affidavits, each exhibit must be identified separately and not by category or group designation. Rule 193.7 applies to this designation. On or before fourteen (14) days before the Initial Trial Setting, the attorneys in charge for all parties shall meet in person to confer on stipulations regarding the materials to be submitted to the Court under this paragraph and attempt to maximize agreement on such matters. Seven (7) days before the Initial Trial Setting, the parties shall file with the Court the materials stated in Rule 166 (e)-(1), an estimate of the length of trial, designation of deposition testimony to be offered in direct examination, and any motions in limine. Failure to file such materials may result in dismissal for want of prosecution or other appropriate sanction.

SIGNED 25 day of September, 2007.



Judge Sally L. Montgomery