

**Dorothy Menasco**

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**Sent:** Friday, May 02, 2008 3:09 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Gurdian, Manuel; Carver, J; Tracy Hatch; Follensbee, Greg; Eller, Perry; Holland, Robyn P; Woods, Vickie  
**Subject:** Florida Docket No. 050863-TP  
**Importance:** High  
**Attachments:** Corrected-Motion.pdf

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- B. Docket No. 050863-TP: dPi Teleconnect, L.L.C. v. BellSouth Telecommunications, Inc.
- C. BellSouth Telecommunications, Inc.  
on behalf of J. Phillip Carver
- D. 5 pages total (includes letter, pleading and certificate of service)
- E. Corrected Version of BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion to Strike Appendices to dPi's Post-Hearing Brief

<<Corrected-Motion.pdf>>

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May 2, 2008

Ms. Ann Cole  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
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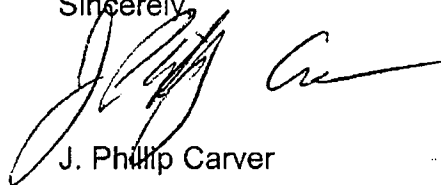
**Re: Docket No. 050863-TP: dPi Teleconnect, L.L.C. v. BellSouth  
Telecommunications, Inc.**

Dear Ms. Cole:

Enclosed is a corrected version of BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion to Strike Appendices to dPi's Post-Hearing Brief, which we ask that you file in the captioned docket. The Motion previously filed included an incorrect date on the first page. This version is being filed to correct that error.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



J. Phillip Carver

cc: All parties of record  
Gregory Follensbee  
E. Earl Edenfield, Jr.  
Lisa S. Foshee

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**CERTIFICATE OF SERVICE  
DOCKET NO. 050863-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Electronic Mail and First Class U. S. Mail this 2nd day of May, 2008 to the following:

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\_\_\_\_\_  
J. Phillip Carver

**(+) Signed Protective Agreement**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: dPi Teleconnect, L.L.C. v. ) Docket No. 050863-TP  
BellSouth Telecommunications, Inc. )  
\_\_\_\_\_ ) Filed: May 2, 2008

**AT&T FLORIDA'S MOTION TO STRIKE APPENDICES TO  
dPi's POST-HEARING BRIEF**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida") hereby files its Motion to Strike the Appendices to the Post-Hearing Brief of dPi Teleconnect, L.L.C. ("dPi"), and states the following:

1. The Appendices to dPi's Post-Hearing Brief should be stricken for two reasons: 1) they are an edited version of testimony that the Commission has already ruled that dPi may not submit in this proceeding; 2) the Brief exceeds the page limit set forth in the *Pre-Hearing Order*.

2. On March 7, 2008, dPi filed a Motion For Leave to file the Additional Direct Testimony of Steven Tepera, as well as voluminous attachments to that testimony. On March 28, 2008, the Commission denied this request (*Order Denying Motion for Leave to File Supplemental Testimony and Additional Direct Testimony*, Order No. PSC-08-0209-PCO-TP, issued March 28, 2008). dPi subsequently moved for reconsideration of this Order, and the Motion for Reconsideration was denied at the beginning of the hearing in this matter, held April 3, 2008.

3. dPi has attached to its Brief an Appendix labeled "Appendix 1" and entitled "Analyzing Exhibit 13: BellSouth's Billing and Ordering Data for Retail Features or Basic Service plus TouchStar Blocking Features." dPi has also attached three charts. The first is labeled "Appendix 2A." The second chart is labeled "Appendix 2B." The third chart has no

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label. These appendices are nothing more than reformatted and edited versions of the testimony and exhibits of Mr. Tepera, which the Commission has already denied dPi leave to file.

4. For example, the first page of Appendix 1 (page 20 of the Brief)<sup>1</sup> duplicates a substantial portion of page 2 of the testimony of Mr. Tepera. The first paragraph of the second page of Appendix 1 (Brief, p. 21) is an edited version of footnote 2 to page 7 of Mr. Tepera's testimony. The first two paragraphs of the third page of Appendix 1 is an abbreviated version of the first full paragraph of page 8 of Mr. Tepera's testimony ( Brief, p. 22). The three pages of charts (pages 23, 24 and 25 of the Brief; App 2A, App 2B and the unlabeled chart) are identical to an exhibit to Mr. Tepera's rejected testimony that was labeled "dPi – FL Exhibit 7(A)." Again, the Commission has twice denied dPi's efforts to place this information into the record as part of the testimony of Mr. Tepera. By attaching to its Brief Appendices having the same information, dPi is attempting to avoid the Commission's previous rulings. The Commission should not tolerate this tactic.

5. Moreover, the *Pre-Hearing Order* entered in this proceeding expressly states that "a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 25 pages." (*Pre-Hearing Order*, Order No. PSC-07-0787-PHO-TP, issued September 27, 2007, p. 10). dPi's Brief, the attached Appendices and the Certificate of Service total 26 pages. Thus, dPi has also violated the express provisions of the *Pre-Hearing Order*.

WHEREFORE, AT&T Florida respectfully requests the entry of an Order striking the Appendices to dPi's Post-Hearing Brief (which are numbered consecutively as pages 20-25 of the Brief) for the reasons set forth above.

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<sup>1</sup> The six pages of the Appendices are numbered consecutively as pages 20-25 of the Brief.

Respectfully submitted this 2nd day of May, 2008.

AT&T FLORIDA

  
EARL EDENFIELD, JR.

TRACY HATCH

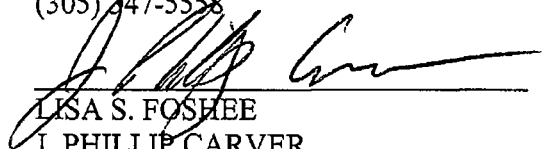
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