

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

REQUEST FOR RECONSIDERATION OF PRELIMINARY DECISION
ON dPi's MOTION TO COMPEL

dPi Teleconnect, LLC ("dPi") seeks reconsideration of the initial decision to the compel the production of discovery relating to key contention in this case. It is believed that an order has been or will be issued on September 26, 2007 requiring the production of information from 2005, but not 2003 or 2004.

Background

1. One of the key contentions in this case that the Line Connection Charge Waiver promotion at issue was never provided by BellSouth to its retail end users who ordered basic service plus the Touchstar blocking features known by their acronyms BCR, BRD, and HBG. BellSouth makes this contention notwithstanding the fact that from January through August of 2004 it made the promotion available under these terms to at least Teleconnex and Budget Phones. This is the way that dPi qualified for the promotion at the times relevant to this dispute. This issue of how and whether the promotion was offered a certain way is relevant because BellSouth is required to extend only those promotional offers that it tenders to its own customers in turn to dPi.
2. If BellSouth is permitted to advance the contention that it does not offer the promotion as described to its own end users, dPi is entitled test such a key contention. On July 20, 2007, dPi requested through its discovery requests documentary evidence of actual orders from 2003 and 2004 showing (1) those instances in which its end users purchased new service under the configuration at issue, and (2) what those end users were charged for the service they purchased.¹

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The relevant request was Request for Information 1-19:

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.

3. On or about August 9, 2007, BellSouth admitted it has the data requested, but refused to provide the data on the grounds that was difficult to extract the data from its systems. Procedural wrangling and negotiations followed. BellSouth offered instead to provide data from 2005 and afterwards – but this data was created *after* the dispute had been worked internally by BellSouth and its position revamped; the best indicator of what BellSouth's initial interpretation of the promotional offering would come from how it applied the promotion *prior* to the filing of the dispute over the LCCW.
4. dPi is entitled to the orders. Their relevance is plain: AT&T claims that dPi is not entitled to the promotion because its own end users were not given the promotional rate. dPi is testing this assertion by asking for AT&T to identify how much it charged its end users for basic service plus two blocks. The request is broken down on a month-to-month basis because it is dPi's contention that AT&T originally awarded its end users the promotional rates, then in 2005 reinterpreted the promotion and ceased awarding promotional rates to its own end users when it discovered that a disproportionate amount of those qualifying under the original interpretation were CLECs' (such as dPi) end users.
5. Therefore, with this discovery request, dPi sought:
 - new service orders
 - for end users
 - who order regular service
 - plus two of the following three call blocks: HBG (call tracing block), BCR (call return block), and BRD (repeat dialing block).
6. dPi is entitled to the requested documents. AT&T's refusal to produce the same is merely stalling based on unjustified objections, which are key to the evaluation of one of the key contentions in this dispute. Without the information requested, dPi's ability to counter one of BellSouth's key contentions is crippled.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing document has been filed with the Florida Public Service Commission and served upon the below-listed attorneys on September 26, 2007.

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