

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by DPI-Teleconnect, L.L.C.
against BellSouth Telecommunications, Inc.
for dispute arising under interconnection
agreement.

DOCKET NO. 050863-TP
ORDER NO. PSC-08-0122-PCO-TP
ISSUED: February 26, 2008

ORDER DENYING ADDITIONAL DISCOVERY AND
FOURTH ORDER MODIFYING PROCEDURE

I. Case Background

On November 10, 2005, this docket was established to address dPi-Teleconnect, L.L.C.'s (dPi) complaint against BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T) for a dispute arising under its interconnection agreement. On April 13, 2007, Order No. PSC-07-0322-PCO-TP (Order Establishing Procedure) was issued, scheduling the matter for an administrative hearing on July 11, 2007. By Order No. PSC-07-0571-PCO-TP (Order Modifying Procedure), issued July 9, 2007, the hearing was rescheduled to October 1, 2007. AT&T and dPi filed an Emergency Joint Motion for Continuance on September 28, 2007, which was granted by Order No. PSC-07-0814-PCO-TP (Second Order Modifying Procedure), issued on October 10, 2007, rescheduling the hearing for November 30, 2007. Due to a scheduling conflict, Order No. PSC-07-0959-PCO-TP (Third Order Modifying Procedure) was issued on November 30, 2007, establishing a new hearing date for March 12, 2008. The Order Modifying Procedure also set forth a discovery deadline in this proceeding of September 24, 2007.

dPi filed a Motion for Additional Discovery (Motion) on January 14, 2008. AT&T filed its Response in Objection to dPi's Motion on January 18, 2008. On January 23, 2008, dPi filed a Motion to Modify Procedural Schedule/Move Hearing Date. AT&T did not file a response to dPi's Motion to Modify Procedural Schedule.

II. Motion for Additional Discovery

A. dPi's Motion for Additional Discovery

Through its Motion, dPi seeks to extend the discovery deadline in this proceeding to allow a response to its Third Set of Requests for Information served upon AT&T on December 21, 2007. AT&T filed objections to dPi's Third Set of Requests for Information on the basis that the discovery deadline of September 24, 2007, had passed. dPi asserts that additional discovery is necessary to obtain information that could not have been anticipated until AT&T produced its responses to dPi's First Set of Requests for Information which were produced after the discovery cut-off. dPi states that the requested discovery tests the contentions set forth by AT&T in this

DOCUMENT NUMBER-DATE

01427 FEB 26 08

FPSC-COMMISSION CLERK

proceeding. dPi further asserts that because this docket is not currently set for hearing, the extra discovery will not unduly delay the docket.¹

B. AT&T's Response in Objection to dPi's Motion for Additional Discovery

In its Response in Objection to dPi's Motion, AT&T questions whether dPi is requesting an extension of the discovery deadline for the purposes of limited discovery, or whether dPi is making a broader request for the discovery period to be re-opened. AT&T objects to granting dPi additional discovery on the basis that the requests are burdensome and unnecessary. AT&T disputes that additional discovery is necessary, asserts that dPi has propounded the same discovery in seven other states, and states that the answers provided in other states are equally applicable in Florida. Finally, AT&T states that it has provided regional information in its Response in Objection to dPi's Motion that should satisfy dPi's current questions.

C. Decision

dPi was notified of the September 24, 2007, discovery deadline by Commission Orders and by staff. Nonetheless, dPi filed its Second Set of Requests for Information on November 11, 2007,² and its Third Set of Requests for Information on December 21, 2007.

In accordance with Rule 28-106.211, Florida Administrative Code, this Commission seeks to promote the just, speedy, and inexpensive determination of all aspects of its cases. Upon consideration of both parties' arguments, I find that dPi has not demonstrated that the interests of judicial economy will be served by granting additional discovery. dPi has not presented a justifiable reason to warrant additional discovery, and granting such would serve as an unnecessary delay in reaching resolution of this proceeding. Accordingly, the Motion for Additional Discovery is denied.

III. Motion to Modify Procedural Schedule/Move Hearing Date

In its Motion to Modify Procedural Schedule, dPi requests that the March 12, 2008, hearing date be rescheduled because it was unaware of the new hearing date. dPi counsel asserts that, as a result, it has a variety of schedule conflicts and respectfully requests a new hearing date.

There are numerous methods available to counsel for dPi to obtain information in the instant docket including, but not limited to, the Commission website, contact with Commission staff, and the faxed and e-mailed copies of Commission Orders that are sent to the parties by the Commission Clerk. Counsel for dPi should be well aware of the procedural schedule set for

¹ dPi's assertion is incorrect. A March 12, 2008, administrative hearing was established in the Third Order Modifying Procedure, Order No. PSC-07-0959-PCO-TP, issued on November 30, 2007.

² AT&T filed its objections to dPi's Second Set of Requests for Information on November 27, 2007; however, dPi's Second Set of Requests for Information was not addressed in its Motion for Additional Discovery.

dockets to which dPi is a party. Nonetheless, in consideration of the scheduling conflicts, dPi's Motion is granted. The controlling dates established by Order No. PSC-07-0959-PCO-TP shall be revised as set forth below:

- 1) Hearing April 3, 2008
- 2) Briefs April 30, 2008

The Parties are hereby put on notice that no additional continuances will be granted in this proceeding absent a showing of good cause.

It is therefore


ORDERED by Commissioner Katrina J. McMurrin, as Prehearing Officer, that dPi-Teleconnect, L.L.C.'s Motion for Additional Discovery is hereby denied. It is further

ORDERED that dPi-Teleconnect, L.L.C.'s Motion to Modify Procedural Schedule/Move Hearing Date is granted. It is further

ORDERED that the controlling dates as established in Order No. PSC-07-0959-PCO-TP are modified as set forth in this order. It is further

ORDERED that Order No. PSC-07-0959-PCO-TP is reaffirmed in all other respects.

By ORDER of Commissioner Katrina J. McMurrin, as Prehearing Officer, this 26th day of February, 2008.


KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(S E A L)

TLT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.