

SCANNED

Legal Department

James Meza III
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July 21, 2006

Mrs. Blanca S. Bayó
Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 050863-TP

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Response to Motion for Emergency Relief and Notice of Withdrawal of Letter of July 2, 2006.

Copies were served on all parties of record.

Sincerely,


James Meza III

cc: All Parties of Record
Jerry D. Hendrix
E. Earl Edenfield, Jr.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re:)	Docket No. 050863-TP
)	
dPi Teleconnect, L.L.C. v.)	
BellSouth Telecommunications, Inc.)	Filed: July 21, 2006
_____)	

**BELLSOUTH’S RESPONSE TO MOTION FOR EMERGENCY RELIEF
AND NOTICE OF WITHDRAWAL OF LETTER OF JULY 7, 2006**

This morning, BellSouth Telecommunications, Inc. (“BellSouth”) received a copy of the Motion for Emergency Relief filed by dPi Teleconnect, L.L.C. (“dPi”) in this docket. BellSouth hereby notifies both the Florida Public Service Commission (“Commission”) and dPi that BellSouth withdraws for now its letter of July 7, 2006 (attached to dPi’s motion) seeking collection of the approximately \$1.4 million owed it by dPi.¹ BellSouth will notify dPi of any further collection action that it plans to take in this matter. dPi’s Motion, therefore, is moot, and no action by the Authority is necessary at this time.

Although the Motion is moot, BellSouth specifically notes that dPi’s accusation that BellSouth has not honored an agreement between the parties is incorrect and misleading. BellSouth and dPi “reached an agreement to abate this docket until thirty (30) days after a dispositive order is issued in the North Carolina case....”² Similarly, BellSouth further agreed not to enforce its contractual remedies while the dispute before the North Carolina Commission

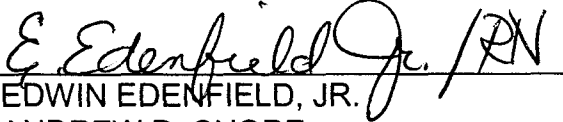
¹ BellSouth’s withdrawal of its letter should not be viewed as suggesting that dPi’s Motion or that dPi’s position on the underlying dispute has any merit whatsoever. To the contrary, the remainder of this Response explains that dPi’s Motion is inaccurate and without merit, and the North Carolina Commission has entered an Order ruling against dPi’s position on the underlying dispute. Instead, BellSouth is withdrawing its letter because it is confident that it will prevail on the merits of the underlying dispute, and there is no need for BellSouth or the Authority to expend time and resources to consider injunctive relief.

² See *Order Holding Complaint in Abatement* (March 14, 2006).

was pending. The North Carolina Commission held an evidentiary hearing on dPi's Complaint, and on June 7, 2006, it issued an Order disposing of the matter by dismissing dPi's complaint on the merits.³ While dPi has asked the North Carolina Commission to reconsider its decision, it has neither sought nor obtained a stay of the North Carolina Commission's dispositive order. BellSouth, therefore, is entitled to enforce its contractual remedies, and its decision to do so did not breach an agreement between it and dPi. Rather than requiring the Commission to expend its resources refereeing this intermediate skirmish, however, BellSouth has decided to withdraw its collection letter for now.

BellSouth reserves the right, should it become necessary, to raise additional legal and factual defenses to the Motion.


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³ See Order Dismissing Complaint, *In the Matter of Complaint of dPi Teleconnect, L.L.C. Against BellSouth Telecommunications, Inc. Regarding Credit for Resale of Services Subject to Promotional Discounts* Docket No. P-55, Sub 1577 (June 7, 2006).