

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

MOTION FOR CONTINUANCE

dPi Teleconnect, L.L.C. (“dPi”), Complainant in the above numbered and styled cause, moves the Florida Public Service Commission (“Commission”) to continue the cause to allow adequate discovery before direct testimony is filed.

This case has been either held in abeyance or continued essentially from the time it was filed until July 9, 2007, when the Commission issued a scheduling order requiring direct testimony to be filed July 23, 2007. dPi requests a continuance to allow development of the facts of the case.

**Background**

The issue in dispute is whether dPi, a CLEC who resells telecommunications services, is entitled to credit for certain promotions offered BellSouth Telecommunications, Inc.’s (“BellSouth”) end users. This is one of several parallel proceedings before the Public Service Commissions of states in the southern and southeastern United States. The legal theories in each state are similar, but each state has its own state specific facts, including the length of time promotions were offered, the amount of credits requested by dPi, and the eligibility terms of the promotions.

This matter was held in abeyance pending resolution of similar litigation in North Carolina from soon after its filing until the Commission ceased holding the case in abeyance pursuant to an order dated January 4, 2007. During the time it was held in abeyance, all parties were blocked from proceeding in any way, including discovery. Subsequent to the Commission’s order of January 4,

2007, discovery disputes arose in several states, including Louisiana. BellSouth refused to produce certain documents, dPi filed a motion to compel, and argument over the motion was heard by the Louisiana Public Commission April 19, 2007.

On May 11, 2007, between the time the Louisiana Public Service Commission heard argument on the motion to compel and issued its ruling, dPi and BellSouth agreed in this case to jointly continue the matter. The reason for this was to use the Louisiana PSC ruling to guide the parties as to their obligations in discovery. This agreed continuance had the benefit of allowing each party to only spend the resources on a single hearing in anticipation that the ruling of the Louisiana PSC would aid the parties in avoid similar disputes in other states.

June 13, 2007, BellSouth withdrew its joint motion for continuance. dPi does not complain of this and is prepared to proceed with discovery. However, the Commission issued an order July 9, 2007, that requires direct testimony to be filed Monday, July 23, 2007. This quick two-week period prevents dPi from using any discovery materials from BellSouth in its direct testimony. dPi can file its testimony without the discovery materials, but no exhibits will be included and none can be included until discovery has been conducted.

Because this suit has been either continued or held in abeyance essentially since its inception, the parties were not able to conduct discovery. This continuance is requested to (1) allow for discovery and (2) build in a time to resolve any disputes concerning discovery so that no future continuances need be requested.

dPi respectfully requests this Commission continue the current matter pursuant to the below schedule.

- |                                     |                    |
|-------------------------------------|--------------------|
| (1) Direct testimony and exhibits   | September 21, 2007 |
| (2) Rebuttal testimony and exhibits | October 12, 2007   |
| (3) Prehearing statements           | October 26, 2007   |
| (4) Prehearing Conference           | November 9, 2007   |
| (5) Discovery Deadline              | November 15, 2007  |
| (6) Hearing                         | November 29, 2007  |
| (7) Briefs                          | December 6, 2007   |

**Prayer**

dPi prays the Commission continues the above styled cause pursuant to the included schedule. This motion is not solely for delay but that justice may be done in resolving the case on its facts.

Respectfully Submitted,

**FOSTER MALISH BLAIR & COWAN, LLP**

/s/ Chris Malish\_\_\_\_\_

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**Certificate of Conference**

I hereby certify that counsel for dPi conferred with counsel for BellSouth on Thursday, July 19, 2007, and Friday July 20, 2007, via telephone regarding the contents of this motion and could not reach an agreement.

/s/ Chris Malish

Chris Malish

**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 July 20, 2007.

/s/ Chris Malish \_\_\_\_\_  
Chris Malish

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