

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2
3 **In Re:**) **DOCKET NO. 050863-TP**
4)
5 **dPi Teleconnect, L.L.C. v.**)
6 **BellSouth Telecommunications, Inc.**)

7 **FIRST AMENDED DIRECT TESTIMONY OF dPi TELECONNECT'S BRIAN**
8 **BOLINGER**

9 **Please tell us who you are and give a little background about yourself.**

10 My name is Brian Bolinger. I am dPi's vice president legal and regulatory affairs. I am the
11 one who has taken the lead in dealing with this dispute over promotion credits with BellSouth since
12 its inception, along with Steve Watson of Lost Key Telecom Inc., which functions as dPi's billing
13 and collections agent for promotions.

14 **Please gives a little background on dPi Teleconnect and describe the history of dPi**
15 **Teleconnect's dispute with BellSouth.**

16 dPi Teleconnect is a competitive facilities-based telecommunications company authorized
17 to provide intrastate local exchange and interexchange telecommunications services in Florida. dPi
18 provides telecommunications services to residential and business customers. This case involves only
19 dPi Teleconnect's resale operations and relationship with BellSouth.

20 As Steve Watson points out in his testimony, BellSouth is required by law to make available
21 for resale any promotion that BellSouth makes available to its customers for an extended period of
22 time. This case arises because of Bellsouth's refusal to extend its promotional pricing to dPi.

23 Although dPi has a number of promotion related disputes, this suit will focus on the dispute
24 about dPi's eligibility for a single particular promotion – the Line Connection Charge Waiver – as

1 this argument encompassed the lion's share of the total dollars in dispute in North Carolina and does
2 in Florida as well.

3 **What's the Line Connection Charge Waiver promotion?.**

4 Generally, the Line Connection Charge Waiver promotion provides that Bellsouth will waive
5 the line connection charge for customers who switch to Bellsouth and take at least basic service with
6 two Touchstar features -- at least, two features are required according to Bellsouth's tariffs. *See* dPi's
7 Exhibit FL-2, a copy of the tariffed promotion.

8 This promotion has been around for a couple of years; dPi's claims go back to January of
9 2004.

10 In August 2004, dPi began submitting credit requests through Lost Key pursuant to
11 Bellsouth's procedures. For some reason, Bellsouth credited dPi only a small fraction of the
12 amounts applied for.

13 Soon after Bellsouth's initial refusal to credit the amounts requested, Steve Watson notified
14 me of the situation so that I could monitor it and participate in the dispute resolution process. From
15 September 2004 to April 2005, Bellsouth was unable to explain why it was refusing to pay these
16 credits. On numerous occasions over this period, Bellsouth's employees promised me that these
17 payments would be forthcoming. *See* dPi's Exhibit FL-5, copies of email communications between
18 the parties on this subject.

19 However, in about April of 2005, Bellsouth stated that it would not be paying these credits
20 applied for almost entirely on the grounds that dPi had not qualified for the credits because,
21 notwithstanding the fact that dPi had purchased Bellsouth's basic service with two or more
22 Touchstar features, the Touchstar features that dPi had included in its orders (e.g., BCR and BRD

1 blocks)¹ “did not count” because Bellsouth did not have a separate charge for these particular
2 Touchstar features. In North Carolina, the overwhelming majority of the time a credit request was
3 denied, it was denied because Bellsouth decided that dPi did not have the requisite number of
4 Touchstar features, since it refused to count the Touchstar blocks that dPi had on the lines. We are
5 not sure if this is the basis for denial in Florida because we do not have responses to discovery, but
6 for now we will assume that BellSouth is consistent with their denials.

7 **Is there any merit to Bellsouth’s position?**

8 Essentially none. The fact of the matter is that all that is required to qualify for these
9 promotion is the purchase of basic service with two (or sometimes one, if you use the promotion
10 description from Bellsouth’s website) Touchstar features. In every case where Bellsouth denied
11 credit on the grounds that dPi did not qualify because it had not purchased Bellsouth’s basic service
12 with two features, dPi *had* in fact taken Bellsouth’s basic service with at least two additional
13 Touchstar features, such as the BCR and BRD blocks, among others.² Bellsouth simply chooses not
14 to “count” these features. There is no dispute that the blocks ordered are listed by Bellsouth as
15 Touchstar features. There is no dispute that Bellsouth has paid credits of far higher amounts to other

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A large portion of dPi’s customers are pre-paid. dPi’s most basic offering generally includes basic service, plus a number Touchstar blocks, including (among others) the BCR and BRD Touchstar blocks. Other features can be added at the customer’s request.

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BellSouth has also contended that the Touchstar BCR, BRD, and HBG blocking features are not features at all. However, they are described in the Touchstar feature portion of the tariff, where they are listed with other features, and are specifically referred to as features. *See* Exhibit dPi FL-1, an excerpt from the tariff. Furthermore, BellSouth employees repeatedly referred to these features as features during communications between the parties; *see* Exhibit dPi FL-5.

1 carriers (such as Budget) with the same service orders (i.e., basic service plus Touchstar blocks) in
2 the past. Now Bellsouth is simply fabricating an excuse to avoid having to pay these credits to dPi.

3 **Does Bellsouth owe dPi any amounts for wrongfully denying promotion credits for this**
4 **reason?**

5 Yes. Our billing agent (Lost Key) has calculated that Bellsouth has wrongfully denied tens
6 of thousands of dollars in promotional credits just on the line connection charge waiver alone. There
7 are also credits owed for other promotions, such as the Secondary Service Charge Waiver promotion
8 and the Two Features For Free promotion which were improperly denied.

9 **Did Bellsouth fail to credit dPi for any other reasons?**

10 In North Carolina, yes. We are not sure in Florida yet because we do not have responses to
11 discovery.

12 **Does this conclude your testimony?**

13 Yes – for now. But I reserve the right to supplement or amend it at hearing.

14 Respectfully Submitted,

15 **FOSTER MALISH BLAIR & COWAN, LLP**

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1 CERTIFICATE OF SERVICE

2 I hereby certify that true copy of the foregoing document has been filed with the Florida
3 Public Service Commission and served upon Defendant BellSouth through its below-listed attorneys
4 on this 25th day of July, 2007.

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6 _____
7 Chris Malish

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