

Ruth Nettles

From: Woods, Vickie [vf1979@att.com]
Sent: Monday, September 17, 2007 2:52 PM
To: Filings@psc.state.fl.us
Subject: 050863-TP AT&T Florida's Response in Opposition to dPi's Motion to Compel
Importance: High
Attachments: Resp_in_.pdf

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- B. Docket No. 050863-TP: dPi Teleconnect, L.L.C. v. BellSouth Telecommunications, Inc.
- C. BellSouth Telecommunications, Inc.
on behalf of Manuel A. Gurdian and J. Phillip Carver
- D. 7 pages total (includes letter, certificate of service and pleading)
- E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Response in Opposition to dPi's Motion to Compel
.pdf
<<Resp_in_.pdf>>

9/17/2007

DOCUMENT NUMBER-DATE

08470 SEP 17 8

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September 17, 2007

Ms. Ann Cole
Commission Clerk
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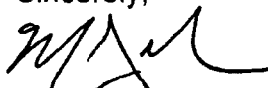
**Re: Docket No. 050863-TP: dPi Teleconnect, L.L.C. v. BellSouth
Telecommunications, Inc.**

Dear Ms. Cole:

Enclosed is an original of BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Response in Opposition to dPi's Motion to Compel, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



Manuel A. Gurdian

cc: All parties of record
Jerry Hendrix
E. Earl Edenfield, Jr.
James Meza III

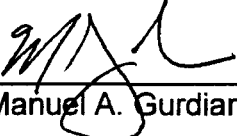
**CERTIFICATE OF SERVICE
DOCKET NO. 050863-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and First Class U. S. Mail this 17th day of September, 2007 to the following:

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Manuel A. Gurdian

(+) Signed Protective Agreement

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: dPi Teleconnect, L.L.C. v.
BellSouth Telecommunications, Inc.

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Docket No. 050863-TP

Filed: September 17, 2007

**AT&T FLORIDA'S RESPONSE IN OPPOSITION TO DPI'S
MOTION TO COMPEL**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida"), submits this Response in Opposition to dPi Teleconnect, LLC's ("dPi") Motion to Compel ("Motion"). For the following reasons, the Florida Public Service Commission ("Commission") should deny the Motion.

Factual Background

On November 10, 2005, dPi filed this action before the Commission against AT&T Florida alleging that AT&T Florida failed to make available three certain retail promotions to dPi.¹ To the contrary, AT&T Florida makes its retail promotions available to reseller CLECs, such as dPi, by giving them a credit for the value of the promotion, *if* the CLEC's end user customer meets the same criteria an AT&T Florida customer must meet in order to qualify for the promotion. For example, one promotion at issue in this docket is the Line Connection Charge Waiver ("LCCW") which gives an AT&T customer a credit for the line connection charge if the customer, among other requirements, purchases at least basic service and two features, such as caller ID or call waiting. Likewise, in addition to other criteria, if a CLEC end user purchases basic service plus two features, AT&T Florida will provide the CLEC a credit under the promotion for the line connection charge.

¹ dPi is a resale CLEC that buys services at wholesale from AT&T Florida at a legally-mandated discount price and resales these services at a marked up price to end user customers.

Without the knowledge of its end users, dPi places on its customers' lines usage blocks that prevent its end users from using certain features such as call return and repeat dialing that, in the absence of the blocks, can be utilized on a per usage basis, e.g., without a monthly subscription charge. These line usage blocks are provided by AT&T Florida to dPi free of charge. However, dPi claims in this docket that it is entitled to a credit under the LCCW promotion when it places these two blocks on a customer's basic service, even though these blocks are not "features" as that term is commonly understood and these services are not "purchased" by the end user (or by dPi).

Discovery Request at Issue in this Motion to Compel

On July 23, 2007, dPi served its First Requests for Information upon AT&T Florida. On August 9, 2007, AT&T Florida served its responses and objections to dPi's First Requests for Information. The response at issue in dPi's Motion to Compel is AT&T Florida's Response to Item 1-19. Specifically, AT&T Florida responded as follows:

REQUEST: 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.

RESPONSE: AT&T Florida objects to this Request on the grounds that it is overly broad and that responding to this Request as written would be unduly burdensome.

AT&T Florida also objects to this Request to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence that is relevant to any issue in this complaint. dPi is requesting information related to services that have been offered by AT&T Florida since January,

2002. dPi's complaint is only related to services AT&T Florida has offered since the Fall of 2003.

Subject to and without waiving the foregoing objections, the parties agreed in a parallel proceeding in Louisiana that AT&T Florida would provide a sample of the information requested and that the agreement would apply to all states. dPi asked for time to consult with a statistician and/or their consultant to facilitate discussions regarding the sampling process and to communicate with AT&T Florida. dPi has failed to contact AT&T Florida regarding this issue. AT&T Florida remains willing to provide a reasonable sample.

On August 30, 2007 (21 days after AT&T Florida filed its responses to dPi's First Request for Information), dPi first contacted AT&T Florida about its response to Item 1-19. As indicated above, AT&T Florida asserts that dPi's discovery request is overly broad and unduly burdensome and AT&T Florida, in an effort to resolve the identical discovery dispute in a parallel proceeding in Louisiana, entered into an agreement with dPi, that AT&T Florida would provide a sample of the information requested and that agreement would apply to the remainder of the former BellSouth states where dPi and AT&T were litigating this issue. It was AT&T Florida's understanding that dPi intended to consult with a statistician and/or consultant to propose an appropriate sampling process. dPi would then communicate this sampling process to AT&T Florida, who would then determine whether it was appropriate (i.e. a valid sampling process and not unduly burdensome). If AT&T agreed that the sampling process was appropriate, AT&T would then compile the data for Louisiana. dPi now denies that this agreement ever took place.

On August 31, 2007, dPi first contacted AT&T Florida about a proposed sampling process in which AT&T Florida would review every third service order. On September 4, 2007, dPi further narrowed its request to new service orders for end users who order

basic local service with two of the three call blocks: HBG, BCR and BRD from January 1, 2003 to the present. AT&T Florida continues to believe that the discovery request is overly broad and unduly burdensome. Since dPi made its most recent refinement to its Request (approximately nine days before it filed its Motion to Compel), AT&T Florida has labored diligently to determine whether it is even possible to cull from the millions of subscriber records created over a five year period (two years of which predate dPi's submission of credit requests) the information which dPi seeks. That effort is ongoing. At this juncture, it appears unlikely that the information dPi seeks could possibly be produced in the two weeks remaining before the hearing in this matter. In any event, this effort would be tremendously burdensome. However, had dPi not waited several weeks before beginning the process of refining its request, a response might at least be possible. Also, the information requested beyond two years is not readily available and will require even more programming time to retrieve and compile.

Moreover, none of this information is relevant. dPi claims that it seeks to determine how AT&T Florida treats its retail customers who order from AT&T Florida basic service plus two or more call blocks (Motion to Compel, p. 1). dPi's customers, however, do not order call blocks. dPi places these blocks on its end users' lines without even telling the customer that it has done so. AT&T Florida does not do this. Thus, the requested information relates to service requests from AT&T Florida's customers that are markedly different from the dPi orders that relate to its credit requests.

WHEREFORE, for the foregoing reasons, AT&T Florida respectfully requests that the Commission deny dPi's Motion to Compel.

Respectfully submitted this 17th day of September 2007.

AT&T FLORIDA



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