

Ruth Nettles

From: Smith, Debbie N. [ds3504@att.com]
Sent: Friday, May 02, 2008 2:49 PM
To: Filings@psc.state.fl.us
Cc: Gurdian, Manuel; Carver, J; Tracy Hatch; Follensbee, Greg; Eller, Perry; Holland, Robyn P; Woods, Vickie
Subject: Florida Docket No. 050863-TP
Importance: High
Attachments: motion.pdf

- A. Debbie N. Smith
Assistant to J. Phillip Carver
AT&T Southeast
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301
(404) 335-0772
_debbie.n.smith@att.com

- B. Docket No. 050863-TP: dPi Teleconnect, L.L.C. v. BellSouth Telecommunications, Inc.

- C. BellSouth Telecommunications, Inc.
on behalf of J. Phillip Carver

- D. 5 pages total (includes letter, pleading and certificate of service)

- E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion to Strike Appendices to dPi's Post-Hearing Brief

<<motion.pdf>>

Debbie N. Smith (sent on behalf of J. Phillip Carver)
Assistant to J. Phillip Carver & John T. Tyler
AT&T Southeast
675 West Peachtree Street, N.E.
Suite 4300
Atlanta, Georgia 30375
(404) 335-0772
Please note my new email address is debbie.n.smith@att.com

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J. Phillip Carver
Senior Attorney
Legal Department

AT&T Florida
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

T: 404.335.0710
F: 404.614.4054
j.carver@att.com

May 2, 2008

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

**Re: Docket No. 050863-TP: dPi Teleconnect, L.L.C. v. BellSouth
Telecommunications, Inc.**

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion to Strike Appendices to dPi's Post-Hearing Brief, 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,

J. Phillip Carver

cc: All parties of record
Gregory Follensbee
E. Earl Edenfield, Jr.
Lisa S. Foshee

**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 2nd day of May, 2008 to the following:

Theresa Tan
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ltan@psc.state.fl.us

Christopher Malish Steven Tepera (+)
Foster Malish Blair & Cowan LLP
1403 West Sixth Street
Austin, TX 78703
Tel. No. (512) 476-8591
Fax. No. (512) 477-8657
chrismalish@fostermalish.com
steventepera@fostermalish.com
Counsel for dPi

DPI-Teleconnect, LLC
2997 LBJ Freeway, Suite 225
Dallas, TX 75234-7627
Tel. No. (972) 488-5500 x4001
Fax No (972) 488-8636
ddorwart@dpiteleconnect.com

Norman H. Horton, Jr.
Messer, Caparello & Self, P.A.
2618 Centennial Place
Tallahassee, FL 32308
Tel No. (850) 425-5203
Fax No (850) 558-0664
nhorton@lawfla.com



J. Phillip Carver

(+) Signed Protective Agreement

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: dPi Teleconnect, L.L.C. v.) Docket No. 050863-TP
BellSouth Telecommunications, Inc.)
_____) Filed: April 30, 2008

**AT&T FLORIDA'S MOTION TO STRIKE APPENDICES TO
dPi's POST-HEARING BRIEF**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida") hereby files its Motion to Strike the Appendices to the Post-Hearing Brief of dPi Teleconnect, L.L.C. ("dPi"), and states the following:

1. The Appendices to dPi's Post-Hearing Brief should be stricken for two reasons: 1) they are an edited version of testimony that the Commission has already ruled that dPi may not submit in this proceeding; 2) the Brief exceeds the page limit set forth in the *Pre-Hearing Order*.
2. On March 7, 2008, dPi filed a Motion For Leave to file the Additional Direct Testimony of Steven Tepera, as well as voluminous attachments to that testimony. On March 28, 2008, the Commission denied this request (*Order Denying Motion for Leave to File Supplemental Testimony and Additional Direct Testimony*, Order No. PSC-08-0209-PCO-TP, issued March 28, 2008). dPi subsequently moved for reconsideration of this Order, and the Motion for Reconsideration was denied at the beginning of the hearing in this matter, held April 3, 2008.
3. dPi has attached to its Brief an Appendix labeled "Appendix 1" and entitled "Analyzing Exhibit 13: BellSouth's Billing and Ordering Data for Retail Features or Basic Service plus TouchStar Blocking Features." dPi has also attached three charts. The first is labeled "Appendix 2A." The second chart is labeled "Appendix 2B." The third chart has no

label. These appendices are nothing more than reformatted and edited versions of the testimony and exhibits of Mr. Tepera, which the Commission has already denied dPi leave to file.

4. For example, the first page of Appendix 1 (page 20 of the Brief)¹ duplicates a substantial portion of page 2 of the testimony of Mr. Tepera. The first paragraph of the second page of Appendix 1 (Brief, p. 21) is an edited version of footnote 2 to page 7 of Mr. Tepera's testimony. The first two paragraphs of the third page of Appendix 1 is an abbreviated version of the first full paragraph of page 8 of Mr. Tepera's testimony (Brief, p. 22). The three pages of charts (pages 23, 24 and 25 of the Brief; App 2A, App 2B and the unlabeled chart) are identical to an exhibit to Mr. Tepera's rejected testimony that was labeled "dPi – FL Exhibit 7(A)." Again, the Commission has twice denied dPi's efforts to place this information into the record as part of the testimony of Mr. Tepera. By attaching to its Brief Appendices having the same information, dPi is attempting to avoid the Commission's previous rulings. The Commission should not tolerate this tactic.

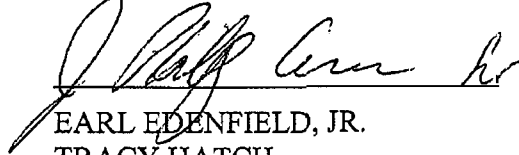
5. Moreover, the *Pre-Hearing Order* entered in this proceeding expressly states that "a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 25 pages." (*Pre-Hearing Order*, Order No. PSC-07-0787-PHO-TP, issued September 27, 2007, p. 10). dPi's Brief, the attached Appendices and the Certificate of Service total 26 pages. Thus, dPi has also violated the express provisions of the *Pre-Hearing Order*.

WHEREFORE, AT&T Florida respectfully requests the entry of an Order striking the Appendices to dPi's Post-Hearing Brief (which are numbered consecutively as pages 20-25 of the Brief) for the reasons set forth above.

¹ The six pages of the Appendices are numbered consecutively as pages 20-25 of the Brief.

Respectfully submitted this 2nd day of May, 2008.

AT&T FLORIDA



EARL EDENFIELD, JR.

TRACY HATCH

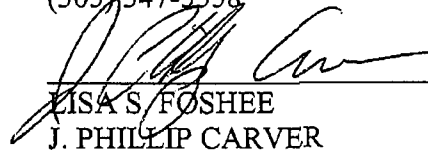
MANUEL A. GURDIAN

c/o Gregory R. Follensbee

150 So. Monroe Street, Suite 400

Tallahassee, FL 32301

(305) 347-5558



LISA S. FOSHEE

J. PHILLIP CARVER

AT&T Southeast

Suite 4300, AT&T Midtown Center

675 W. Peachtree St., NE

Atlanta, GA 30375

(404) 335-0710

710606