



BellSouth Telecommunications, Inc.

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July 21, 2006

VIA HAND DELIVERY

Filed Electronically in Docket Office on 07/21/06 @ 2:15pm

Hon. Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *dPi Teleconnect LLC v. BellSouth Telecommunications, Inc.*
Docket No. 05-00310

Dear Chairman Kyle:

Enclosed are the original and four copies of BellSouth's *Response to Motion for Emergency Relief and Notice of Withdrawal of Letter of July 7, 2006*.

A copy is being provided to counsel of record.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joelle Phillips", written over the typed name.

Joelle J. Phillips

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *dPi Teleconnect LLC v. BellSouth Telecommunications, Inc.*

Docket No. 05-00310

**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 Tennessee Regulatory Authority ("TRA" or "Authority") and dPi that BellSouth withdraws for now its letter of July 7, 2006 (referenced as Exhibit B in 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 false 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

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).

remedies while the dispute before the North Carolina Commission 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 Authority 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.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By:



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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).

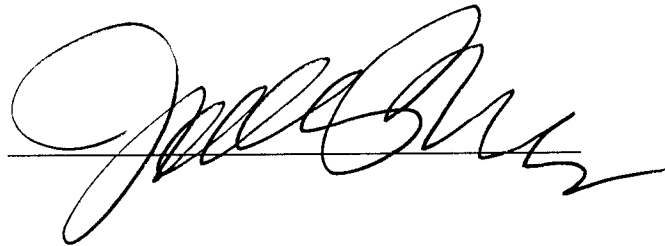
E. Earl Edenfield, Jr.
Andrew D. Shore
675 W Peachtree St, N.E., Suite 4300
Atlanta, Georgia 30375

CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2006, a copy of the foregoing document was served on the following, via the method indicated:

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

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A handwritten signature in black ink, appearing to read 'Chris Malish', is written over a horizontal line.