

**BellSouth Telecommunications, Inc.**  
601 W. Chestnut Street  
Room 407  
Louisville, KY 40203

Mary.Keyer@BellSouth.com

**Mary K. Keyer**  
General Counsel/Kentucky

502 582 8219  
Fax 502 582 1573

February 15, 2007

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602

**RECEIVED**

FEB 15 2007

PUBLIC SERVICE  
COMMISSION

Re: dPi Teleconnect, L.L.C. v. BellSouth Telecommunications, Inc.  
KPSC 2005-00455

Dear Ms. O'Donnell:

Enclosed for filing in the above-referenced case are the original and ten (10) copies of BellSouth's Answer to dPi's Complaint.

Sincerely,

  
Mary K. Keyer

cc: Parties of Record

668078

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In Re: )  
 )  
dPi TELECONNECT, L.L.C. )  
Complainant )  
v. ) No. 2005-00455  
 )  
BELLSOUTH TELECOMMUNICATIONS, INC. )  
Defendant )

BELLSOUTH TELECOMMUNICATIONS, INC.'S  
ANSWER TO DPI TELECONNECT, LLC'S COMPLAINT

Pursuant to 807 KAR 5:001, Section 12, and in compliance with the Order the Public Service Commission of Kentucky ("Commission") issued in this docket on January 26, 2007, BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits its Answer to the Complaint filed by dPi Teleconnect, L.L.C. ("dPi") on November 9, 2005, alleging failure to issue promotional credits.

SUMMARY OF BELLSOUTH'S POSITION

As an initial matter, and as reflected in its Complaint, dPi appears to be asking the Commission to order BellSouth to apply promotional credits for resold accounts that are outside of BellSouth's Kentucky operating territory (i.e., for accounts in other BellSouth states) and, therefore, are not accounts that are subject to the jurisdiction of this Commission. To the extent dPi has asked the Commission to award credits to non-Kentucky resold accounts, BellSouth respectfully submits that the Commission has no jurisdiction to do so and should therefore decline dPi's request. If the Commission concludes that any relief is ultimately due dPi, which relief is expressly

denied by BellSouth, that relief can only apply to accounts resold in Kentucky under the terms of the dPi/BellSouth interconnection agreement approved by this Commission.

BellSouth began receiving applications for resale promotional credits from dPi in September of 2004. These credits received in September 2004 were for the time period encompassing October 2003 through August 2004. As a general matter, resellers are responsible for determining the eligibility of their end users' subscription to the reseller's services, including whether their end users are eligible for resold services involving promotions. For example, if BellSouth offers a promotion to its retail customers that is limited to 1) residential customers, 2) living in a certain geographic area, and 3) for a certain period of time, then CLECs who wish to resell that promotion to their end users must ensure that those end users meet the same qualifications to receive the promotional benefit, i.e. waiver of a line connection charge, secondary service order charge, or some other benefit.

After making the eligibility determination, a reseller like dPi then electronically submits a local service request ("LSR") to BellSouth to establish the end user's service. The reseller later submits to BellSouth a promotional credit request form with a spreadsheet of billing telephone numbers for assessment. BellSouth subsequently evaluates the request for accuracy and eligibility and then applies the appropriate credit to the reseller's monthly bill.

Since dPi submitted thousands of end user telephone numbers to qualify for promotions on a region-wide basis, it took several months for BellSouth to analyze and process this large volume of requests. BellSouth performed a random sampling of those telephone numbers using a procedure customarily used for processing credit

requests of this type. As a result of this sampling process, BellSouth determined that dPi was not entitled to promotional credits for all of the accounts submitted.<sup>1</sup>

dPi thereafter submitted promotional credit requests to BellSouth on a monthly basis. Not all of the accounts for which dPi requests credits are eligible for the promotion dPi claims. BellSouth issues credits for those that meet the promotional eligibility criteria and properly denies the others.

dPi did not receive all credits requested because not all of dPi's end user accounts qualified for the promotions in question. BellSouth requests, therefore, that the Commission dismiss dPi's complaint and close this docket.

#### RESPONSES TO SPECIFIC ALLEGATIONS IN THE COMPLAINT

1. Paragraph 1 of the Complaint is an introduction and, accordingly, no response is required.

#### I. IDENTIFICATION OF PARTIES

2. BellSouth admits the allegation in Paragraph 2 of the Complaint on information and belief.

3. BellSouth admits the allegations in Paragraph 3 of the Complaint.

#### II. FACTS AND NATURE OF DISPUTE

4. BellSouth admits that it and dPi are parties to an interconnection agreement and that dPi resells certain BellSouth retail telecommunications services. BellSouth denies the remaining allegations in Paragraph 4 of the Complaint, and

---

<sup>1</sup> On a region-wide basis, dPi had requested credits totaling \$546,582.51 and actually received credits totaling \$193,185.37.

BellSouth specifically denies that dPi is entitled to additional credits from BellSouth as a result of dPi reselling BellSouth services subject to promotional discounts. BellSouth has correctly issued credits to dPi where dPi's end-user customers meet the qualifications for the promotion. dPi is wrongfully claiming, however, that it is entitled to such credits for all end-user customers, including those who do not qualify for the promotion.

5. BellSouth admits that dPi resells certain BellSouth retail residential and business telecommunications services.

6. BellSouth admits that it sells certain retail services under various promotions offered for greater than 90 days.

7. BellSouth denies the allegations in Paragraph 7 of the complaint. dPi is not entitled to resell services offered under promotions at the promotional rate less the wholesale discount unless the dPi end-user customer qualifies for the promotion. dPi is wrongfully claiming that it is entitled to such promotions for all of its customers.

8. BellSouth admits that the process for dPi and other resellers to receive any promotional discounts to which they may be entitled involves the submission of promotion credit requests, and that BellSouth has issued such credits to dPi. BellSouth denies the remaining allegations in Paragraph 8 of the Complaint. BellSouth specifically denies that dPi is entitled to such credits for end-user customers who do not qualify for a given promotion.

9. BellSouth admits that dPi claims that it is entitled to hundreds of thousands of dollars in promotional credits. BellSouth denies the remaining allegations in Paragraph 9 of the Complaint.

10. BellSouth admits that in September 2004, dPi requested credits from BellSouth totaling approximately \$479,000 for the BellSouth Region. BellSouth also admits that dPi is claiming that it is owed the amounts set forth in Exhibit "A" to the Complaint in connection with dPi's operations for the Commonwealth of Kentucky. BellSouth denies the remaining allegations in Paragraph 10 of the Complaint, and BellSouth specifically denies that dPi is entitled to any of the claimed credits.

11. BellSouth admits that it may have mistakenly issued credits in limited circumstances to reseller customers in the past. BellSouth has instituted safeguards to ensure that it does not issue promotional credits in instances where they are not properly due, such as in this case with dPi. BellSouth treats all of its reseller customers at parity. BellSouth denies the remaining allegations in Paragraph 11 of the Complaint.

12. BellSouth denies that Exhibit "A" to dPi's complaint shows amounts that BellSouth owes to dPi. dPi is not entitled to promotional discounts above and beyond the wholesale discount unless its end-user customer meets the qualifications for the promotion. BellSouth has correctly issued credits to dPi for such customers. BellSouth does not owe dPi any additional credits.

### III. DPI TELECONNECT'S FIRST CAUSE OF ACTION

13. BellSouth denies the allegations in Paragraph 13 of the Complaint. BellSouth denies that dPi is entitled to any relief requested in its Conclusion and Prayer for Relief. All allegations in the Complaint that are not expressly admitted herein are denied.

AFFIRMATIVE DEFENSES

14. The Complaint fails to state a claim upon which relief can be granted.
15. The Commission lacks jurisdiction to order any relief regarding any non-Kentucky accounts.

WHEREFORE, BellSouth respectfully requests that the Commission enter an Order denying all of the relief requested by dPi in the Complaint, dismissing the Complaint with prejudice, and granting such further relief as the Commission deems fair and equitable.

Respectfully submitted this 15th day of February, 2007.

  
\_\_\_\_\_  
Mary K. Keyer  
601 W. Chestnut Street  
Room 407  
Louisville, Kentucky 40203  
(502) 582-8219 (telephone)  
(502) 582-1573 (fax)  
[mary.keyer@bellsouth.com](mailto:mary.keyer@bellsouth.com)

Andrew D. Shore  
675 W. Peachtree Street, NW  
Suite 4300  
Atlanta, Georgia 30375  
(404) 335-0765  
[andrew.shore@bellsouth.com](mailto:andrew.shore@bellsouth.com)

COUNSEL FOR BELLSOUTH  
TELECOMMUNICATIONS, INC.

**CERTIFICATE OF SERVICE – 2005-00455**

It is hereby certified that a true and correct copy of the foregoing was served on the following individuals by mailing a copy thereof, this 15th day of February, 2007.

Douglas F. Brent  
Stoll Keenon Ogden, PLLC  
2000 PNC Plaza  
500 W. Jefferson Street  
Louisville, KY 40202  
[Douglas.brent@skofirm.com](mailto:Douglas.brent@skofirm.com)

Christopher Malish  
Foster Malish Blair & Cowan, L.L.P.  
1403 West Sixth Street  
Austin, TX 78703  
[chrismalish@fostermalish.com](mailto:chrismalish@fostermalish.com)

  
\_\_\_\_\_  
Mary K. Keyer