

2005-455

FOSTER MALISH BLAIR & COWAN, L.L.P.

ATTORNEYS AND COUNSELORS AT LAW
A REGISTERED LIMITED LIABILITY PARTNERSHIP

1403 WEST SIXTH STREET
AUSTIN, TEXAS 78703
(512) 476-8591
FAX: (512) 477-8657
www.fostermalish.com

Jennifer L. Gunter, CP
Paralegal

WRITER'S EMAIL:
jennifer@fostermalish.com

November 8, 2005

RECEIVED

NOV 09 2005

PUBLIC SERVICE
COMMISSION

Via UPS 2nd Day Air

Docketing Division
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, Kentucky 40602-0615

In the Matter of: dPi Teleconnect, L.L.C. v. BellSouth Telecommunications, Inc.

Dear Sir or Madam:

Please find enclosed the original and eleven (11) copies of **dPi Teleconnect, L.L.C.'s Original Complaint**. Please file this complaint and return a file-marked copy to this office; a self-addressed, stamped envelope is enclosed.

Thank you for your time and assistance. If you should have any questions, please do not hesitate to call.

Very truly yours,



Jennifer L. Gunter, CP
Paralegal

Enclosures

BEFORE THE
PUBLIC SERVICE COMMISSION OF KENTUCKY

RECEIVED

NOV 09 2005

PUBLIC SERVICE
COMMISSION

In the Matter of:) No. _____
)
dPi Teleconnect, L.L.C. v.)
BellSouth Telecommunications, Inc.)

DPI TELECONNECT, L.L.C.'S ORIGINAL COMPLAINT

TO THE HONORABLE UTILITIES COMMISSION:

1. dPi Teleconnect, L.L.C. (“dPi Teleconnect,”or “dPi”) brings this complaint against BellSouth Telecommunications, Inc. (“BellSouth”) and in support thereof, shows as follows:

I. IDENTIFICATION OF PARTIES

2. Complainant dPi Teleconnect, L.L.C. is a Texas corporation headquartered at 2997 LBJ Freeway, Suite 225, Dallas, Texas 75234. Designated representative for complainant is:

Christopher Malish
Foster Malish Blair & Cowan, L.L.P.
1403 West Sixth Street
Austin, Texas 78703
(512) 476-8591
(512) 477-8657/fax
chrismalish@fostermalish.com

3. BellSouth is an “incumbent local exchange carrier” (“ILEC”) as defined by the Act. 47 U.S.C. §251(h). It is a Georgia corporation with its principal place of business in Atlanta.

II. FACTS AND NATURE OF THE DISPUTE

4. The parties’ dispute arises under their interconnection agreement and centers on credits which are due from BellSouth to dPi Teleconnect as a result of dPi Teleconnect’s reselling of services subject to BellSouth promotional discounts.

5. Among other things, dPi Teleconnect resells BellSouth’s retail residential and business telephone services.

6. BellSouth has over the past months and years sold its retail services at a discount to its end users under various promotions that have lasted for more than 90 days.
7. dPi Teleconnect is entitled to purchase and resell those same services at the promotional rate, less the wholesale discount.
8. As a practical matter, dPi Teleconnect has bought these services at the regular retail rate less the resale discount, then been credited the difference between that rate and the promotional rate pursuant to “promotion credit requests.”
9. After completing an audit in 2004, dPi Teleconnect noted that BellSouth had failed to issue dPi Teleconnect with hundreds of thousands of dollars worth of promotional credits to which dPi was entitled. Promotions for which credits were due but not paid included (but may not be limited to):
 - the CREX Non-Recurring promotion;
 - the Line Connection Charge Waiver promotion;
 - the Secondary Service Charge Waiver promotion; and
 - the Two Features for Free promotion.
10. On or about September 3, 2004, dPi Teleconnect sent a request to BellSouth for these credits in an amount then totaling approximately \$479,000.00.¹
11. BellSouth admitted its obligation to pay the credits to dPi Teleconnect and has repeatedly promised to issue the credits to dPi Teleconnect. BellSouth has paid similar credits to other CLECs. However, despite its promises, and its treatment of other CLECs with essentially identical claims, BellSouth has in fact refused to issue the credits to dPi.
12. Exhibit A shows the total amounts dPi is due from BellSouth with regards to these

¹ This figure included amounts for other BellSouth states, not just Kentucky.

promotions in this state.

III. DPI TELECONNECT'S FIRST CAUSE OF ACTION

13. dPi is entitled to the above mentioned promotional credits on these telecommunications services its has purchased from BellSouth, and BellSouth has admitted as much. However, BellSouth nonetheless refuses to credit or pay dPi for these promotions. dPi accordingly requests that this Commission enter an order directing BellSouth to pay the credits together with interest at the contract rate.

IV. CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, based upon the foregoing and attachments hereto, dPi Teleconnect respectfully requests and prays that following a hearing on the merits of the issues set forth above, the Commission issue a ruling:

1. that dPi is entitled to the promotion credits it seeks to collect;
2. ordering BellSouth pay or credit dPi those amounts, plus interest at the contract rate;
and
3. such other and further relief to which dPi may show itself entitled.

Respectfully submitted,

Foster Malish Blair & Cowan, L.L.P.
1403 West Sixth Street
Austin, Texas 78703
(512) 476-8591/ (512) 477-8657/fax

By: 

Christopher Malish
State Bar No. 00791164
Attorney for Complainant

RBOC Tracker Account QuickReport All Transactions

Accounts Receivable
BellSouth
Promotional
DPI Teleconnect

Type	Date	Num	Name	Memo	Open Balance	Amount	Balance
Invoice	01/08/2004	LC-KY-502-20040108	BellSouth	LC-KY-502-20040108	1,449.57	1,525.86	1,525.86
Payment	05/12/2005	Direct Deposit	BellSouth	LC-KY-502-20040108		-76.29	1,449.57
Invoice	02/08/2004	LC-KY-502-20040208	BellSouth	LC-KY-502-20040208	4,085.49	4,085.49	5,535.06
Invoice	03/08/2004	LC-KY-502-20040308	BellSouth	LC-KY-502-20040308	1,176.58	3,596.19	9,131.25
Payment	05/12/2005	Direct Deposit	BellSouth	LC-KY-502-20040308		-2,419.61	6,711.64
Invoice	04/08/2004	LC-KY-502-20040408	BellSouth	LC-KY-502-20040408	2,434.56	2,434.56	9,146.20
Invoice	05/08/2004	LC-KY-502-20040508	BellSouth	LC-KY-502-20040508	1,667.49	1,667.49	10,813.69
Invoice	06/08/2004	LC-KY-502-20040608	BellSouth	LC-KY-502-20040608	1,371.33	1,371.33	12,185.02
Invoice	07/08/2004	LC-KY-502-20040708	BellSouth	LC-KY-502-20040708	554.14	1,108.29	13,293.31
Payment	05/16/2005	Direct Deposit	BellSouth	LC-KY-502-20040708		-554.15	12,739.16
Invoice	08/08/2004	LC-KY-502-20040808	BellSouth	LC-KY-502-20040808	555.54	1,111.08	13,850.24
Payment	05/16/2005	Direct Deposit	BellSouth	LC-KY-502-20040808		-555.54	13,294.70
Invoice	09/08/2004	LC-KY-502-20040908	BellSouth	LC-KY-502-20040908	1,154.74	2,309.49	15,604.19
Payment	05/16/2005	Direct Deposit	BellSouth	LC-KY-502-20040908		-1,154.75	14,449.44
Invoice	10/08/2004	LC-KY-502-20041008	BellSouth	LC-KY-502-20041008	1,319.97	1,970.10	16,419.54
Payment	05/16/2005	Direct Deposit	BellSouth	LC-KY-502-20041008		-650.13	15,769.41
Invoice	11/08/2004	LC-KY-502-20041108	BellSouth	LC-KY-502-20041108	2,349.48	3,012.15	18,781.56
Payment	05/16/2005	Direct Deposit	BellSouth	LC-KY-502-20041108		-662.67	18,118.89
Invoice	12/08/2004	LC-KY-502-20041208	BellSouth	LC-KY-502-20041208	2,508.92	2,819.01	20,937.90
Payment	05/16/2005	Direct Deposit	BellSouth	LC-KY-502-20041208		-310.09	20,627.81
Invoice	01/08/2005	LC-KY-502-20050108	BellSouth	LC-KY-502-20050108	2,128.29	2,128.29	22,756.10
Invoice	02/08/2005	LC-KY-502-20050208	BellSouth	LC-KY-502-20050208	3,080.22	3,080.22	25,836.32
Invoice	03/08/2005	LC-KY-502-20050308	BellSouth	LC-KY-502-20050308	3,398.43	3,398.43	29,234.75
Invoice	04/08/2005	LC-KY-502-20050408	BellSouth	LC-KY-502-20050408	2,599.20	2,599.20	31,833.95
Invoice	05/08/2005	LC-KY-502-20050508	BellSouth	LC-KY-502-20050508	2,366.49	2,366.49	34,200.44
Invoice	06/08/2005	LC-KY-502-20050608	BellSouth	LC-KY-502-20050608	1,455.96	1,455.96	35,656.40
Invoice	07/08/2005	LC-KY-502-2	BellSouth	LC-KY-502-20050708	1,352.94	1,352.94	37,009.34
Total LC Kentucky							37,009.34
Invoice	10/08/2003	SS-KY-502-20031008	BellSouth	SS-KY-502-20031008		66.24	37,075.58
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20031008		-66.24	37,009.34
Invoice	11/08/2003	SS-KY-502-20031108	BellSouth	SS-KY-502-20031108		74.52	37,083.86
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20031108		-74.52	37,009.34
Invoice	12/08/2003	SS-KY-502-20031208	BellSouth	SS-KY-502-20031208		57.96	37,067.30
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20031208		-57.96	37,009.34
Invoice	01/08/2004	SS-KY-502-20040108	BellSouth	SS-KY-502-20040108		57.96	37,067.30
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20040108		-57.96	37,009.34
Invoice	02/08/2004	SS-KY-502-20040208	BellSouth	SS-KY-502-20040208		66.24	37,075.58
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20040208		-66.24	37,009.34
Invoice	03/08/2004	SS-KY-502-20040308	BellSouth	SS-KY-502-20040308	66.24	66.24	37,075.58
Invoice	04/08/2004	SS-KY-502-20040408	BellSouth	SS-KY-502-20040408		57.96	37,133.54
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20040408		-57.96	37,075.58
Invoice	05/08/2004	SS-KY-502-20040508	BellSouth	SS-KY-502-20040508		24.84	37,100.42
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20040508		-24.84	37,075.58

EXHIBIT
A

RBOC Tracker Account QuickReport All Transactions

Type	Date	Num	Name	Memo	Open Balance	Amount	Balance
Invoice	06/08/2004	SS-KY-502-20040608	BellSouth	SS-KY-502-20040608		8.28	37,083.86
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20040608		-8.28	37,075.58
Invoice	07/08/2004	SS-KY-502-20040708	BellSouth	SS-KY-502-20040708		24.84	37,100.42
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20040708		-24.84	37,075.58
Invoice	08/08/2004	SS-KY-502-20040808	BellSouth	SS-KY-502-20040808		132.48	37,208.06
Payment	01/11/2005	Direct Deposit	BellSouth	SS-KY-502-20040808		-132.48	37,075.58
Invoice	09/08/2004	SS-KY-502-20040908	BellSouth	SS-KY-502-20040908		107.64	37,183.22
Payment	05/18/2005	Direct Deposit	BellSouth	SS-KY-502-20040908		-107.64	37,075.58
Invoice	10/08/2004	SS-KY-502-20041008	BellSouth	SS-KY-502-20041008		82.80	37,158.38
Payment	05/18/2005	Direct Deposit	BellSouth	SS-KY-502-20041008		-82.80	37,075.58
Invoice	11/08/2004	SS-KY-502-20041108	BellSouth	SS-KY-502-20041108		41.40	37,116.98
Payment	05/18/2005	Direct Deposit	BellSouth	SS-KY-502-20041108		-41.40	37,075.58
Invoice	12/08/2004	SS-KY-502-20041208	BellSouth	SS-KY-502-20041208	57.96	57.96	37,133.54
Invoice	01/08/2005	SS-KY-502-20050108	BellSouth	SS-KY-502-20050108	66.24	66.24	37,199.78
Invoice	02/08/2005	SS-KY-502-20050208	BellSouth	SS-KY-502-20050208	74.52	74.52	37,274.30
Invoice	03/08/2005	SS-KY-502-20050308	BellSouth	SS-KY-502-20050308	8.28	8.28	37,282.58
Invoice	04/08/2005	SS-KY-502-20050408	BellSouth	SS-KY-502-20050408	82.80	82.80	37,365.38
Invoice	05/08/2005	SS-KY-502-20050508	BellSouth	SS-KY-502-20050508	24.84	24.84	37,390.22
Invoice	06/08/2005	SS-KY-502-20050608	BellSouth	SS-KY-502-20050608	57.96	57.96	37,448.18
Invoice	07/08/2005	SS-KY-502-2	BellSouth	SS-KY-502-20050708	24.84	24.84	37,473.02
Total SS Kentucky							463.68
Invoice	12/08/2003	TF-KY-502-20031208	BellSouth	TF-KY-502-20031208		33.60	37,506.62
Payment	05/17/2005	Direct Deposit	BellSouth	TF-KY-502-20031208		-33.60	37,473.02
Invoice	01/08/2004	TF-KY-502-20040108	BellSouth	TF-KY-502-20040108		56.00	37,529.02
Payment	05/17/2005	Direct Deposit	BellSouth	TF-KY-502-20040108		-56.00	37,473.02
Invoice	02/08/2004	TF-KY-502-20040208	BellSouth	TF-KY-502-20040208		123.20	37,596.22
Payment	05/17/2005	Direct Deposit	BellSouth	TF-KY-502-20040208		-123.20	37,473.02
Invoice	03/08/2004	TF-KY-502-20040308	BellSouth	TF-KY-502-20040308		179.20	37,652.22
Payment	05/17/2005	Direct Deposit	BellSouth	TF-KY-502-20040308		-179.20	37,473.02
Invoice	04/08/2004	TF-KY-502-20040408	BellSouth	TF-KY-502-20040408		179.20	37,652.22
Payment	05/18/2005	Direct Deposit	BellSouth	TF-KY-502-20040408		-179.20	37,473.02
Invoice	05/08/2004	TF-KY-502-20040508	BellSouth	TF-KY-502-20040508		168.00	37,641.02
Payment	05/18/2005	Direct Deposit	BellSouth	TF-KY-502-20040508		-168.00	37,473.02
Invoice	06/08/2004	TF-KY-502-20040608	BellSouth	TF-KY-502-20040608		123.20	37,596.22
Payment	05/18/2005	Direct Deposit	BellSouth	TF-KY-502-20040608		-123.20	37,473.02
Invoice	07/08/2004	TF-KY-502-20040708	BellSouth	TF-KY-502-20040708		89.60	37,562.62
Payment	05/18/2005	Direct Deposit	BellSouth	TF-KY-502-20040708		-89.60	37,473.02
Invoice	08/08/2004	TF-KY-502-20040808	BellSouth	TF-KY-502-20040808		123.20	37,596.22
Payment	05/18/2005	Direct Deposit	BellSouth	TF-KY-502-20040808		-123.20	37,473.02
Invoice	09/08/2004	TF-KY-502-20040908	BellSouth	TF-KY-502-20040908		100.80	37,573.82
Payment	05/18/2005	Direct Deposit	BellSouth	TF-KY-502-20040908		-100.80	37,473.02
Invoice	10/08/2004	TF-KY-502-20041008	BellSouth	TF-KY-502-20041008		100.80	37,573.82
Payment	05/18/2005	Direct Deposit	BellSouth	TF-KY-502-20041008		-100.80	37,473.02
Invoice	11/08/2004	TF-KY-502-20041108	BellSouth	TF-KY-502-20041108		162.24	37,635.26
Payment	05/18/2005	Direct Deposit	BellSouth	TF-KY-502-20041108		-162.24	37,473.02
Invoice	12/08/2004	TF-KY-502-20041208	BellSouth	TF-KY-502-20041208		112.32	37,585.34
Payment	05/18/2005	Direct Deposit	BellSouth	TF-KY-502-20041208		-112.32	37,473.02
Invoice	01/08/2005	TF-KY-502-20050108	BellSouth	TF-KY-502-20050108	174.72	174.72	37,647.74

RBOC Tracker
Account QuickReport
 All Transactions

Type	Date	Num	Name	Memo	Open Balance	Amount	Balance
Invoice	02/08/2005	TF-KY-502-20050208	BellSouth	TF-KY-502-20050208	224.64	224.64	37,872.38
Invoice	03/08/2005	TF-KY-502-20050308	BellSouth	TF-KY-502-20050308	336.96	336.96	38,209.34
Invoice	04/08/2005	TF-KY-502-20050408	BellSouth	TF-KY-502-20050408	231.29	231.29	38,440.63
Invoice	05/08/2005	TF-KY-502-20050508	BellSouth	TF-KY-502-20050508	212.58	212.58	38,653.21
Invoice	06/08/2005	TF-KY-502-20050608	BellSouth	TF-KY-502-20050608	235.87	235.87	38,889.08
Invoice	07/08/2005	TF-KY-502-2	BellSouth	TF-KY-502-20050708	24.96	24.96	38,914.04
Invoice	07/08/2005	TF-KY-502-2	BellSouth	TF-KY-502-20050708	37.44	37.44	38,951.48
Invoice	07/08/2005	TF-KY-502-2	BellSouth	TF-KY-502-20050708	183.45	183.45	39,134.93
Total TF Kentucky						<u>1,661.91</u>	
Total DPI Teleconnect					<u>39,134.93</u>	<u>39,134.93</u>	<u>39,134.93</u>
Total Promotional					<u>39,134.93</u>	<u>39,134.93</u>	<u>39,134.93</u>
Total BellSouth					<u>39,134.93</u>	<u>39,134.93</u>	<u>39,134.93</u>
Total Accounts Receivable					<u>39,134.93</u>	<u>39,134.93</u>	<u>39,134.93</u>
TOTAL					<u><u>39,134.93</u></u>	<u><u>39,134.93</u></u>	<u><u>39,134.93</u></u>